

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

v.

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315 (ER)

**DECLARATION OF
ARLO DEVLIN-BROWN**

ARLO DEVLIN-BROWN declares pursuant to 28 U.S.C. § 1746:

1. I am a partner at Covington & Burling LLP, counsel to the Petitioners in this action. I am submitting this declaration to put documents before the Court in connection with Petitioners' motion for a Preliminary Injunction in this case. This declaration is based on my personal knowledge and on information and documents in the possession of my firm.
2. Attached as Exhibit 1 is the expert report and declaration of Dr. Homer Venters.
3. Attached as Exhibits 2, 3, 4, and 5 are copies of the declarations that Petitioners Cesar Fernandez-Rodriguez, Rober Galvez-Chimbo, Sharon Hatcher, and James Woodson previously filed when this action was commenced on April 28, 2020. (These declarations are also available on the docket in this matter at ECF Nos. 9, 11, 12, and 14, respectively.)
4. Attached as Exhibits 6 through 34 are declarations from other current and former inmates at the MCC as set forth in the table below. These declarations describe the declarants' experiences, and those of other inmates at the MCC, in the wake of the COVID-19 pandemic.

Exhibit #	Document	Date Executed
6	Declaration of Vinicius Andrade	May 15, 2020
7	Declaration of Robert Barnes	May 18, 2020
8	Declaration of Armando Beniquez	May 26, 2020
9	Declaration of Randolph Bourgoin	May 18, 2020
10	Declaration of William Bradley	May 20, 2020
11	Declaration of Terrell Brown	May 15, 2020
12	Declaration of David Crosby	May 26, 2020
13	Declaration of Franklyn Dansowah	May 21, 2020
14	Declaration of Darius Davis	May 11, 2020
15	Declaration of Tiffany Days	May 18, 2020
16	Declaration of Manolo Dones	May 20, 2020
17	Declaration of Michael Falu	May 8, 2020
18	Declaration of Anthony Flynn	May 15, 2020
19	Declaration of Carlos Garcia	May 13, 2020
20	Declaration of Rodney Griffin	May 20, 2020
21	Declaration of Chris Karimbux	May 19, 2020
22	Declaration of Anthony Luna	May 18, 2020
23	Declaration of Emil Matute	May 20, 2020
24	Declaration of Richard Michel	May 18, 2020
25	Declaration of Ahmad Jamal Naqvi	May 12, 2020
26	Declaration of Carolyn Richardson	May 18, 2020
27	Declaration of Adrienne Roberts	May 22, 2020
28	Declaration of Joseph Schiliro	May 18, 2020

29	Declaration of Antonio Smith	May 22, 2020
30	Declaration of Jorge Soto	May 18, 2020
31	Declaration of Nicolas Sucich	May 13, 2020
32	Declaration of Tyler Toro	May 22, 2020
33	Declaration of Wilbert Turner	May 18, 2020
34	Declaration of Guillermo Zegarra-Martinez	May 18, 2020

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

Executed at New York, New York this 26th day of May 2020.

s/ Arlo Devlin-Brown
Arlo Devlin-Brown

UNITED STATES DISTRICT COURT
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CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES
WOODSON, individually and on behalf of all
others similarly situated,

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-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional
Center,

Respondent.

No. 20 Civ. 3315 (ER)

**FACILITY EVALUATION OF
THE METROPOLITAN
CORRECTIONAL CENTER**

DR. HOMER S. VENTERS declares pursuant to 28 U.S.C. § 1746:

I. Executive Summary

1. My inspection of the Metropolitan Correctional Center (“MCC”) and review of information from BOP staff as well as detained and recently released people indicates that the MCC’s response to the COVID-19 pandemic suffers from widespread and systematic failures to follow CDC guidelines and basic infection control practices.

2. The deficiencies in the MCC’s response to the COVID-19 pandemic include the following failures: (1) inadequate detection and response to COVID-19 cases among staff and detainees; (2) inadequate infection control measures necessary to slow the spread of COVID-19 through the facility; and (3) inadequate identification and protection of high-risk detainees from serious illness and death. These deficiencies are caused in substantial part by grossly inadequate or absent sick call systems, deficient COVID-19 screening and contact tracing, inadequate access

to soap and cleaning supplies, and deficient isolation and quarantine procedures. Across many measures, the MCC has failed to implement CDC guidelines.

3. These deficiencies have led to many vulnerable people becoming infected with COVID-19 and receiving ineffective care. These deficiencies have also increased the risk that detained people and staff will suffer serious illness or death from COVID-19.

4. I believe that these deficiencies can be remedied but they require a commitment to address structural barriers to access, quality, and transparency in the MCC's health services, and meeting the CDC's specific COVID-19 guidelines. Without fundamental improvements to the underlying health care system at the MCC, it is likely that the next wave of COVID-19 will similarly overwhelm the facility's medical system and leave patients with unmet needs, increasing the risk of serious illness or death.

II. Background

5. I am a physician, internist, and epidemiologist with over a decade of experience in providing, improving, and leading health services for incarcerated people. My clinical training includes residency training in internal medicine at Albert Einstein/Montefiore Medical Center (2007) and a fellowship in public health research at the New York University School of Medicine (2009). My experience in correctional health includes two years visiting immigration detention centers as part of my public health fellowship where I conducted analyses of physical and mental health policies and procedures for persons detained by the U.S. Department of Homeland Security and evaluated individual asylum applications for torture survivors. This work included and resulted in collaboration with U.S. Immigration and Customs Enforcement ("ICE") on numerous individual cases of medical release, the formulation of health-related policies, as well as testimony before the U.S. Congress regarding mortality inside ICE detention facilities.

6. After my fellowship training, I became the Deputy Medical Director of the Correctional Health Services of New York City. This position included both direct care to persons held in NYC's 12 jails, as well as oversight of medical policies for their care. This role included oversight of chronic care, sick call, specialty referral, and emergency care. I subsequently was promoted to the positions of Medical Director, Assistant Commissioner, and Chief Medical Officer. In the latter two roles, I was responsible for all aspects of health services including physical and mental health, addiction, quality improvement, re-entry, and morbidity and mortality reviews as well as all training and oversight of physicians, nurses, and pharmacy staff. In these roles, I was also responsible for evaluating and making recommendations on the health implications of numerous security policies and practices including use of force and restraints. During this time I provided numerous datasets and other forms of cooperation for the U.S. Department of Justice investigation into brutality in the NYC jail system, and worked with my team to support their critical efforts. Many of the data systems that I implemented in the NYC jails were identified and reported in the U.S. Attorney's Office for the Southern District of New York's substantiation of the health consequences of a pattern and practices of brutality regarding adolescent detainees.¹

7. During this time, I managed multiple communicable disease outbreaks including H1N1 in 2009, which impacted almost 1/3 of housing areas inside the adolescent jail, multiple seasonal influenza outbreaks, a recurrent legionella infection, and several other smaller outbreaks.

8. In March 2017, I left the Correctional Health Services of New York City to become the Director of Programs for Physicians for Human Rights. In this role, I oversaw all programs of

¹ See Report on CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island, U.S. Dep't of Justice (Aug. 4, 2014), <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>.

Physicians for Human Rights, including training of physicians, judges, and law enforcement staff on forensic evaluation and documentation, analysis of mass graves and mass atrocities, documentation of torture and sexual violence, and analysis of attacks against healthcare workers. I subsequently worked with the nonprofit Community Oriented Correctional Health Services (COCHS) in promoting evidence-based health services for people with justice involvement. I have also worked as an independent correctional health expert since 2017. In my roles as a correctional health physician I have conducted over 50 facility inspections, three of which have been specific for assessing the adequacy of COVID-19 response. My CV is attached hereto as **Appendix A**.

9. I expect to be compensated for my work on this matter at my usual consulting rate of \$500 dollars per hour, plus reimbursement of reasonable expenses. My compensation is not contingent upon the substance of the opinions expressed.

III. Methodology

10. The purpose of this report is to focus on the adequacy of the MCC's response to COVID-19 with focus on infection control and other public health measures currently being implemented to prevent serious illness and death among staff and detained people.

11. In order to prepare this report, I visited the MCC on May 13, 2020 and physically inspected the facility. I toured and examined the entry and screening area, housing areas, and the health services unit. Housing areas that I inspected included 11S (Dorm), 9S/10S (Special Housing Unit, SHU), 9N, Unit 2 (Women's unit), Unit 3 (at the time used for medical isolation). During this time I spoke with 13 detained people.²

² The people spoken with were: Nicolas Sucich, David Crosby, Robert Russo, Ahmed El Soury, Chris Karimbux, Lenin Guzman-Hidalgo, Eddie Cotto, Brian Capellen, Antonio Smith, Geovanny Fuentes-Ramirez, Tiffany Days, Lavaughn Campbell, and Andres Bello.

12. My interactions with detained people included in most cases asking the following questions, with follow-up as appropriate:

- a. Have you been around anyone you thought had COVID-19?
- b. What has this facility done to prepare for COVID-19?
- c. Have you been asked any questions about COVID-19 by health staff?
- d. How have you reported concerns about your health (including COVID-19) in this facility?
- e. Who wears masks and gloves in this facility and how do they get this equipment?
- f. Who cleans inside cells in this facility and how and how often do they get cleaning supplies?
- g. Who cleans outside cells in this facility and how and how often do they get cleaning supplies?

13. I have conducted this assessment and review of information with the following questions in mind:

- a. Do current practices in the MCC adequately detect the number and severity of COVID-19 cases among staff and detainees and respond in a manner consistent with CDC guidelines and other established clinical standards of care?
- b. Do current practices in the MCC adequately slow the spread of COVID-19 through the facility and between people, both staff and detainees, in a manner consistent with CDC guidelines and other clinical standards of care?
- c. Do current practices in the MCC adequately identify and protect high-risk detainees from serious illness and death from COVID-19?

14. In addition to my inspection of the facility, I was able to review the following records and information:

- a. Declarations from 33 detained or recently released people;³
- b. MCC/BOP policies and procedures relating to COVID-19;
- c. Sick call requests of detained people;
- d. Medical records of detained people;⁴
- e. Photographs taken during the facility inspection;
- f. The deposition transcripts of the following MCC staff: Acting Clinical Director Dr. Robert Beaudouin, dated May 20, 2020; Associate Warden Charisma Edge, dated May 20, 2020; Warden Marti Licon-Vitale, dated May 21, 2020; and Acting Warden Robert Hazelwood, dated May 22, 2020; and
- g. The deposition transcripts of the following MCC inmates: Cesar Fernandez-Rodriguez, Rober Galvez-Chimbo, Sharon Hatcher, and James Woodson, each dated May 19, 2020, and Nicolas Sucich, dated May 21, 2020;
- h. A sample of records documenting inmate temperature checks.

³ I have reviewed the declarations of the following people who are detained at, or were recently released from, the MCC: Vinicius Andrade, Robert Barnes, Armando Beniquez, Randolph Bourgoin, William Bradley, Terrell Brown, David Crosby, Franklyn Dansowah, Darius Davis, Tiffany Days, Manolo Dones, Michael Falu, Cesar Fernandez-Rodriguez, Anthony Flynn, Rober Galvez-Chimbo, Carlos Garcia, Rodney Griffin, Sharon Hatcher, Chris Karimbux, Anthony Luna, Emil Matute, Ahmad Jamal Naqvi, Michel Richard, Carolyn Richardson, Adrienne Roberts, Joseph Schiliro, Antonio Smith, Jorge Soto, Nicolas Sucich, Tyler Toro, Wilbert Turner, James Woodson and Guillermo Zegarra-Martinez.

⁴ I have reviewed the medical records of Woodson, Sucich, Naqvi, Medina, Hatcher, Galvez-Chimbo, Fernandez-Rodriguez, Falu, and Davis.

15. The information I have gathered from the above referenced documents, in conjunction with the results of my physical site visit, are sufficient for me to come to the conclusions drawn below with a high degree of confidence.

IV. Assessment of the COVID-19 Response in the MCC

A. Visual Observations from the Inspection

16. The inspection of the facility lasted approximately 3.5 hours and consisted of observation and photography of various housing units, as well as interviews of inmates both cell-side and in open areas. All interviews were conducted in the presence of at least one representative of the Respondent, including in many cases MCC staff.

17. A significant portion of the inspection took place on 11 South, which, based on medical records, declarations, and deposition testimony, is the unit where the initial outbreak of COVID-19 occurred. 11 South consists of an open communal area with a number of different tiers separated by open metal bars. Each tier contained a dorm-like room with a number of bunk beds spaced only a few feet apart across the tier. It appeared that 20 or more men were in each tier I was able to observe, and were standing or sitting close together. At our request, the MCC staff removed inmates from one tier to enable me to inspect the tier. Photographs were taken of the set-up within the tier. *See* Kala Decl. Exs. 10 and 11. The tier I observed had approximately 26 bunk beds spaced a few feet apart and some small tables in the center. The tier had a single toilet and sink. *See* Kala Decl. Ex. 12. In this tier, as in other places I visited during the inspection, I observed signs of severe pest infection, such as roaches caught in traps. *See* Kala Decl. Ex. 13. I spoke to several inmates on this tier who reported that many in the tier, including Chris Karimbux, Brian Capellan, and David Crosby, had been symptomatic for COVID-19 but were not removed from the tier upon reporting symptoms. This is discussed in more detail below.

18. I also observed the Special Housing Unit (“SHU”) where, based on medical records, declarations, and deposition testimony, it appears that a number of inmates who had COVID-19 were housed for medical isolation. Photographs were taken of a SHU cell. *See* Kala Decl. Exs 14 and 15. The cells I observed and depicted in the photographs consisted of a concrete “bed,” a concrete stool affixed to the ground, and a combined toilet/sink.

19. Throughout my tour of the facility, I observed computer workstations and phones in common areas for inmate use. In almost every case, no cleaning fluid or applicator was visible near these common spaces. *See* Kala Decl. Exs 16 and 17. In a few other instances, I observed cleaning supply with no applicator, *see* Kala Decl. Ex. 18, or a cloth towel with no cleaning supply, *see* Kala Decl. Ex. 19. This was consistent with reports from inmates, including as discussed below, that disinfectant supplies were lacking. I also observed in some instances signs stating that soap was available upon request. As discussed below, inmates I spoke to and declarations I reviewed reported that such signs had been put up in the days prior to the inspection and that adequate soap was not always in fact available.

20. During my tour, it was clear that the MCC is widely infested with mice and roaches. Almost all of the housing areas and other common spaces I toured had evidence of numerous living and dead roaches and mice. Particularly concerning is the presence of these vermin in cells utilized for medical isolation of COVID-19 patients, including the cell in the women’s unit as well as the men’s SHU. This was also an obvious problem in the current isolation unit, as well as 11S, which is designated for high risk patients. Mr. Robert Barnes, a resident of 11 South who is 73 years old and has coronary artery disease, reported that “[t]here is black mold in our unit that has built up over the years. I recently showed it to an employee, but no action has been taken to address it. There are rodents—both rats and mice—and cockroaches in our unit. I see them every day.”

Devlin-Brown Decl. Ex. 7 (Barnes Decl. ¶ 7). While COVID-19 is not known to be spread via these vectors, the presence of mice, rats, and roaches throughout the facility indicates a basic disregard for sanitation and infection control that casts doubt on the ability or commitment of the MCC to maintain a sanitary facility. The CDC identifies over 35 diseases carried by mice and rats,⁵ and the presence of these vermin inside the locked cells of medically isolated patients is especially troubling.

V. Detection of COVID-19 Cases

1. Screening

21. The MCC has failed to adequately detect COVID-19 cases in the facility, and its existing practices for detecting such illness remain deeply inadequate and in many cases non-compliant with CDC guidelines. Most notably, the MCC has ignored the high prevalence of COVID-19 symptoms being experienced and reported by detained people. Therefore, the number of infected detained people has likely been much larger than currently appreciated. There are several reasons for this failure to detect COVID-19 infection, set out below.

22. The CDC recommends that all new admissions to a detention facility be screened for both signs and symptoms of COVID-19. This process should include asking about common symptoms of COVID-19 such as cough, fever, and shortness of breath. This also includes asking about contact with people who have had COVID-19 and checking temperature. Screening should also occur where there is a risk that the infection is being carried by inmates or staff in the facility.⁶

23. The MCC acknowledges that COVID-19 screening for all inmates should take place, and claims that such screening became MCC policy in late March. *See* Kala Decl. Ex. 1

⁵ *Rodents*, CDC, <https://www.cdc.gov/rodents/index.html> (last reviewed July 9, 2010).

⁶ *See* Kala Decl. Ex. 20 (CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, at 10, 26).

(Beaudouin Dep. Tr. at 138:5-9). The screening is meant to involve health staff taking temperatures as well as asking about COVID-19 symptoms. Dr. Robert Beaudouin testified that screening should include “the usual questions, do you have cough, chest pains, shortness of breath, fever, nausea, vomiting, diarrhea, loss of taste, loss of smell, muscle aches and pains.” *Id.* at 146:9-14. He also stated the records of these encounters were not kept electronically, with the exception of temperature taken in the isolation settings, because the process of recording symptoms would have been too burdensome. *See id.* at 148:14-23. He stated that some people would receive this screening on a daily basis when they first arrived into the facility, or if they were in quarantine, and later may have received it less frequently, based generally on whether or not there were any COVID-19 cases at the time. *See id.* at 146-149. He also stated that, when the facility had cases of COVID-19, these screenings would be conducted every day. *See id.* at 149:15-150:5. For the most part, results of these screenings were not officially documented and were handwritten on roster sheets. *See id.* at 147-148.

24. Notwithstanding these statements, it is clear from my conversations with detained people, review of declarations, and review of medical records that very little screening is in fact occurring in the MCC, and that this screening relies almost exclusively on temperature checks. Among other examples, Mr. Michael Falu reported that “[t]here was a period of time when people were coming around to take everyone’s temperatures. But they’ve stopped doing that. I don’t believe that anyone has come to take our temperatures in the last two weeks.” Devlin-Brown Decl. Ex. 17 (Falu Decl. ¶ 13). Likewise, Mr. James Woodson testified that his temperature also had not been checked in approximately two weeks. *See Devlin-Brown Decl. Ex. 9* (Woodson Dep. Tr. at 33:2-4). According to Ms. Sharon Hatcher, unless she requests it from the med line, she no longer receives temperature checks. *See Devlin-Brown Decl. Ex. 5* (Hatcher Dep. Tr. at 28:1-7).

Similarly, Mr. Wilbert Turner reported his temperature has not been checked since early April. *See* Devlin-Brown Decl. Ex. 33 (Turner Decl. ¶ 13).

25. Further, most of the people I spoke with reported no symptom screening. That is, they were never asked whether they had cardinal symptoms of COVID-19, including, for example: fatigue, shortness of breath, cough, loss of taste or smell, and other symptoms identified by the CDC.⁷ The same is true of many declarations I reviewed. For example, Mr. Wilbert Turner reported that, even when the MCC was performing temperature checks, they “never asked us about any other symptoms.” Devlin-Brown Decl. Ex. 33 (Turner Decl. ¶ 13). Likewise, Mr. Franklyn Dansowah states that, “[w]hen the medical staff started coming around taking temperatures, they did not care if people had other symptoms – cough, chills, diarrhea. They just left them in bed unless they had a fever.” Devlin-Brown Decl. Ex. 13 (Dansowah Decl. ¶ 9.) Mr. David Crosby also requested medical care but was told that, unless he had a fever, all they could do was give him Tylenol. *See* Devlin-Brown Decl. Ex. 12 (Crosby Decl. ¶ 8). I have also reviewed a sample of records that the MCC provided to Petitioners which document the results of inmate temperature checks. *See* Kala Decl. Ex. 41. Other than brief and sporadic notes, this document provides no evidences that inmates are asked any standard set of questions regarding symptoms of COVID-19. The accuracy of the thermometers being utilized is also questionable. The internal body temperatures of people who are not ill is commonly accepted to fall between 97 and 99 degrees Fahrenheit.⁸ That few, if any, temperatures were recorded above 98.8 degrees suggests some form

⁷ *See Symptoms of Coronavirus*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (last reviewed May 13, 2020).

⁸ *See Body Temperature Norms*, MedlinePlus, <https://medlineplus.gov/ency/article/001982.htm> (last updated May 7, 2020).

of systematic flaw in this process, potentially the accuracy of the devices being utilized or the training of those administering the checks.

26. The failure to consistently screen individuals for symptoms is a material failing. The CDC makes clear that COVID-19 can present with many signs or symptoms and that screening and surveillance should be focused on asking about symptoms as well as detecting elevated temperature.⁹ It is essential that such active screening be part of any response to a viral outbreak. Failure to do so can result in catastrophic consequences to populations exposed to a communicable virus, such as COVID-19.

27. Detained people I spoke with, and inmates whose declarations I reviewed, also indicated that even when a person is detected as having a temperature or is able to report COVID-19 symptoms, they often are left in their housing area and not placed into isolation. Mr. Chris Karimbux reported that while on 11S, he developed a fever and other COVID-19 symptoms, and a nurse found his temperature to be 105 degrees. He reported that “[s]he gave me Tylenol and told me to take two tablets every four hours. I went back to my bed. My symptoms lasted over two weeks. My bed is a bunk bed very close to everyone else’s bed in my tier. I started having trouble breathing. The other guys in my tier made me hot tea and helped me take hot showers to open up my lungs. I was afraid it was the end. . . . New guys continue to join our unit, as recently as two or three days ago a new person came.” Devlin-Brown Decl. Ex. 21 (Karimbux Decl. ¶¶ 6-10). Likewise, three members of Anthony Luna’s tier developed high fevers in early April but were “just left in the tier.” Devlin-Brown Decl. Ex. 22 (Luna Decl. ¶ 7). After medical staff took Ms. Adrienne Roberts’ temperature and determined she had a fever, they left her in her cell until she suggested that she was going to hurt herself. Only then was she isolated. Devlin-Brown Decl.

⁹ See Interim Guidance on COVID-19 in Correctional Facilities, *supra* note 6.

Ex. 27 (Roberts Decl. ¶¶ 13-15). These reports call into question the MCC's claim that it promptly isolates symptomatic inmates.¹⁰

28. When asked about whether any inmates who reported COVID-19 symptoms were not placed into isolation, Dr. Beaudouin stated "I am not aware of that." Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 158:14). When asked if a symptomatic patient would ever be left in a housing area, he stated "[i]f we know of it, we wouldn't do it." *Id.* at 186:11-16. However, a document entitled Quarantine Isolation Flowsheet provided by the MCC, *see* Kala Decl. Ex. 32, shows that only 33 inmates have been isolated, and does not account for the isolation of numerous inmates who experienced COVID-19 symptoms (as reported through sick call requests, my interviews, and declarations).

29. This lack of screening has translated into inmates contracting COVID-19 and never receiving testing or care. For example, Mr. Darius Davis reported "I had symptoms of the coronavirus in April. My bunkmate complained of a fever first. Then I lost my sense of smell and taste, and I experienced fever and chills. I wrapped myself in a blanket. I asked correctional officers for medical care. They said they would ask medical to see me, but no one came. I also asked to speak with the lieutenant, but he did not come either and the officers did not come back to check on me." Devlin-Brown Decl. Ex. 14 (Davis Decl. ¶ 6). Many others have reported heavily delayed or nonexistent responses. For example, Mr. Armando Beniquez also requested to see a doctor due to his fever, chest pain, cough, lethargy, and loss of taste. Despite his repeated requests,

¹⁰ Dr. Beaudouin testified that any person who was found to have a fever during their screening would automatically be placed in isolation and examined. He stated that, "[i]f somebody has a fever, yes. Person has a fever, then we are going to put him in isolation. We are going to examine him too." Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 150:22-151:3). Warden Licon-Vitale also stated that any inmate who is determined to have symptoms of COVID-19 is isolated immediately. *See* Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 62:9-14).

he never saw a doctor. *See* Devlin-Brown Decl. Ex. 8 (Beniquez Decl. ¶¶ 7-8). While developing symptoms himself, Mr. Guillermo Zegarra-Martinez listened to his cellmate “ask for help and medical attention over and over and over again, with no help given.” Devlin-Brown Decl. Ex. 34 (Zegarra-Martinez Decl. ¶¶ 8-10). Mr. Michael Falu refused to re-enter his cell until a lieutenant ensured him that he would receive medical attention. It still took days until he received a medical visit, and even when he did, the doctor was unfamiliar with his complaints. *See* Devlin-Brown Decl. Ex. 17 (Falu Decl. ¶ 5). Symptomatic inmates should be promptly tested, and testing of close contacts of positive cases should follow. As I indicate in my recommendations below, the following groups should be immediately prioritized for COVID-19 testing at MCC:

- a. Any new admissions or inmates returning from outside the facility;
- b. Any detained person with signs and/or symptoms of COVID-19;
- c. Any close contacts of COVID-19 cases; and
- d. Any staff or detained person who is in the high-risk cohort, as defined by CDC criteria.

30. The failure to detect and respond to COVID-19 at the MCC is also linked to the failure to undertake the critical step of contact tracing once a staff member or inmate is identified as possibly having COVID-19.

31. With respect to inmates, there is no indication that any contact tracing is undertaken for those who test positive. Associate Warden Edge testified that while such tracing was recommended, she was not aware whether it was actually conducted to identify staff and/or inmates who had interacted with COVID-19 positive inmates. *See* Kala Decl. Ex. 2 (Edge Dep. Tr. 52:5-12). What is more, while the MCC's number of positive inmates has been suppressed by a lack of testing, *see* Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 51:12-17), it appears the MCC is

also not even engaging in contact tracing for symptomatic inmates either, *see* Kala Decl. Ex. 6 (Hazelwood Dep. Tr. 41:19-42:9).

32. The testimony of Dr. Beaudouin raises concerns that the COVID-19 cases among staff are not resulting in adequate contact investigations. In his deposition, Dr. Beaudouin reports that despite being the Acting Clinical Director of the MCC and responsible for contact investigations in the facility, he was not even notified whenever a staff member tested positive for COVID-19. When asked about being notified about staff cases, he stated “I wasn't being informed regularly. At first the AW, I think, was contacting the HSA to do the contact investigation. And then after the HSA got sick and she was contacting me, but I think she contacted me like three or four times to do some contact investigation but from the chart there are many more staff that needed some contact investigation who tested positive.” Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 117:14-25). He also agreed that there is no actual policy or protocol for contact tracing in the MCC, and later admitted there is a need “to tighten up on the contact investigation.” *Id.* at 118-19, 131:14-17.

33. It is also apparent that staff members exposed to COVID-19 positive staff or inmates are expected to continue working, at least in some cases when symptomatic or positive for COVID-19, thus amplifying the risk of the infection spreading. *See* Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 120-126). Dr. Beaudouin identified multiple instances in which staff continued to work in the MCC despite having COVID-19 symptoms or a positive test. *See id.* He also noted that an individual who has been exposed to someone with COVID-19 symptoms should quarantine for 14 days, but acknowledged that this standard has not been met for staff members, who are expected to continue working even if they have been exposed to another staff member who has tested positive, unless they themselves develop symptoms. *See id.* at 102-3; 134-35.

2. The Inadequate Sick Call System

34. In addition to proactively screening inmates, it is crucial that the MCC provide them with a way of reporting illness potentially relating to COVID-19, and that it ensure that such reports are promptly acted upon. However, I have found that the sick call system at the MCC is systematically deficient and serves as a barrier to adequate care and an adequate COVID-19 response.

35. It is critical for correctional facilities to implement an effective “sick-call” system to ensure that people who are ill or have medical concerns can receive timely and clinically competent assessments and treatment. This system should be operated so that when a person reports a health problem, the request for medical care is recorded and the individual is assessed by a nurse or physician within 24 hours. This best practice is identified by the National Commission of Correctional Health Care as a basic element of ensuring that sick patients do not deteriorate alone in cells or housing areas and die without receiving care. This standard of care relies on a daily review of paper and electronic sick call submissions by the correctional health authority. That review must be documented and then the records of the original sick call requests must be retained, whether in a central location or the personal medical records of the patients.

36. This basic approach to sick calls becomes even more critical during an outbreak of communicable disease, when the facility must work to quickly identify new symptomatic staff and inmates, both to ensure prompt treatment as well as to track and mitigate the spread of the outbreak throughout the facility. On an operational level, this means that every day, nursing staff should review all sick call requests (as they should always) with a list of symptoms relating to the outbreak. Then any sick call requests with these symptoms should result in a referral for appropriate clinical assessments, and the entry of those symptoms and the inmate’s location into a database or spreadsheet used to track the overall spread of disease symptoms in the facility.

37. MCC Acting Clinical Director Dr. Robert Beaudouin has acknowledged in his testimony that anyone who submitted a sick call request with any symptom of COVID-19 should be seen immediately. *See* Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 228:12-18). However, his testimony regarding the sick call process provides a clear and concerning account of the multiple deficiencies in the MCC sick call system, and how these deficiencies drive a lack of awareness or care for detained people with COVID-19.

38. Dr. Beaudouin reports three ways in which sick call requests can be requested: via verbal request, written paper request, and electronic request. *See* Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 211:11-15). He reported that there are no guidelines or tracking for the number of, or responses to, verbal requests, or even a record as to whether such requests are made. *See id.* at 213:21-214:2; 217:21-218:10. For electronic requests, he indicates that either a nurse or the health services administrator (HSA) is designated to review them. *See id.* at 233:2-234:7. He also reported that paper sick call requests were not retained, but shredded, and that the response was to view them, schedule an encounter and then shred the paper request. *See id.* at 218-220. As a result, there would be no record of the original request, and if no appointment was scheduled, there would be no record of the patient's request for care or reporting of symptoms. Both Warden Marti Licon-Vitale and Acting Warden Robert Hazelwood stated in their depositions that they were unaware that paper sick call requests were being destroyed. *See* Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 59:7-18); Kala Decl. Ex. 6 (Hazelwood Dep. Tr. at 28:18-22).

39. Information I have gathered from my tour of the MCC and review of available information indicates that virtually all of these steps of sick call are broken or grossly deficient in the MCC. This has resulted in the current situation wherein many people cannot report their COVID-19 symptoms via sick call, or when they do, there is no appropriate response.

40. When I toured the MCC, staff stated that the computer kiosks located in each housing area were both operational and also were utilized to report COVID-19 related health problems and all other medical concerns. However, Dr. Beaudouin testified that this electronic sick call inbox was not being monitored by anyone while staff members were absent. *See* Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 259-262). As a result, the monitoring “hasn’t been done timely.” *Id.* at 259:21-22. He further stated that, to date, sick call monitoring had not been treated as a priority: “The sick call box was to be monitored by a nurse daily. If the nurse wasn't there, it's supposed to be the HSA. But what happened is there are a lot of work to be done. Sometimes if you don’t address it, then it stays and you get busy with other things but it’s a problem that right now we have to put it as a priority, the sick call to be addressed first thing in the morning.” *Id.* at 260:22-261:12.

41. I have reviewed a compilation of sick call requests, *see* Kala Decl. Ex. 36, alongside a BOP Health Services Activity Report, *see* Kala Decl. Ex. 37, reflecting that in many cases *weeks* or even a month or more went by between inmates making a sick call request relating to COVID-19 symptoms and any treatment or care. For example, in one such electronic request, from April 16, 2020, a patient reported coughs, fever, chest pain, and shortness of breath and was ignored. This patient was never placed in isolation and an email reply to this patient was sent on May 5 scheduling him or her for sick call. As of May 15, the patient had not had a single encounter with medical staff since March 1. Other patients similarly reported shortness of breath, fever, and chest pain and also received no response, or a very delayed response, to their electronic sick call requests. In fact, of approximately 25 inmates who submitted electronic sick call requests, the medical activities report indicates that only four received any sort of medical care within one day and only five received medical care within one week. Six of these inmates had to wait over 15 days to even

be seen by a medical staff member, and, as of May 15, seven of these inmates had not been seen by a medical staff member at all since making the sick call request.

42. Numerous inmates have reported that their sick call requests – whether verbal, on paper, or in electronic form – have gone unanswered. Mr. Michael Falu, who experienced several days of fever, chills and progressive weakness, reported that he and his cellmate told security staff for several days of his symptoms and that he needed to be seen. Devlin-Brown Decl. Ex. 17 (Falu Decl. ¶ 5). He stated “I did not receive any medical attention until several days later, when a doctor, who was taking temperatures in the unit, came to my cell. I told him about the symptoms I was having. Nothing in his visit suggested that he had come to see me because he had heard about my request for medical attention; instead, it appeared that he was just there because he was taking everyone’s temperatures.” *Id.* Mr. Falu reported never being tested for COVID-19. Others have reported the same issues. After many inmates in his tier became ill, Mr. Anthony Luna and others reported their symptoms to the staff. The staff “did not do anything in response.” *See* Devlin-Brown Decl. Ex. 22 (Luna Decl. ¶ 10). Mr. Darius Davis told correctional officers of his fever, chills, and loss of smell and taste, and while the officers stated that they would inform medical staff, no one came for weeks. *See* Devlin-Brown Decl. Ex 14 (Davis Decl. ¶ 6). Likewise, Mr. Carlos Garcia reported his sweating, headache, and tight chest directly to an MCC doctor, who simply told him to place a sick call request. Mr. Garcia followed the doctor’s instructions but nevertheless did not receive any medical treatment for approximately one week. *See* Devlin-Brown Decl. Ex. 19 (Garcia Decl. ¶¶ 10-12).

43. Dr. Beaudouin also confirms that details from the sick call request or the appointment scheduling do not become incorporated into the sick call encounter itself. This means that no record of the original concern is retained by the health system, essentially making it

impossible to see whether sick call encounters that do occur adequately address the original complaint. When asked about whether he sees the detail of the appointment or the original sick call request when seeing patients for sick call, Dr. Beaudouin replied “No. I don't see the sick call. So when I'm seeing the inmates, I'm talking to him about the present complaint, the complaint he has not [the] complaint he had before.” Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 274:18-22).

44. In the outbreaks I have managed, we would create a template for nurses conducting an outbreak sick-call review so that they could pull out any requests that included rash, spider bites, or fever in the case of MRSA outbreak; or, fever, cough, or sore throat during H1N1, for example. This subset of sick-call requests is then used for two purposes. First, on the clinical side, these patients are seen immediately (same day or next morning) for assessment. Second, on the outbreak management side, these symptoms are put into a simple spreadsheet that can track the overall incidence of various symptoms by date and location within a certain facility.

45. This approach is absolutely essential to tracking the spread of any outbreak and I have utilized it in managing outbreaks of H1N1, Legionella, MRSA, Clostridium Difficile diarrheal illness, seasonal influenza and numerous other instances. I would have expected to have seen such a system implemented at MCC given the severity of the current COVID-19 outbreak.

46. By failing to conduct adequate screenings as well as failing to monitor and respond to sick call requests, the MCC not only increases the likelihood that individual patients with COVID-19 will develop serious illness, but also increases the likelihood that they will transmit infection to others. Ms. Roberts reported that a woman known to have a fever was placed into her cell, and that she became so anxious to get out of the cell that MCC staff responded with a security team armed with riot gear. She stated, “when medical staff was in my Unit they saw Ms. Piquant still in my cell and said, ‘you are not supposed to be in here, you have a fever.’ The medical staff

person then took my temperature, saw that I had a fever, closed the door to my cell and ran away. I was terrified. I now realized that Ms. Piquant had Coronavirus symptoms and I was locked in a cell with her. Panicked, I knew the only way to get taken out of the cell was to act as if I was going to hurt myself. So I began hanging a sheet up. The guards saw this and opened the cell door screaming and yelling. One of the guards had some kind of paint gun and put it to my head. I was put in isolation after that. . . . I had a fever. I asked for medicine. I was told to take the Tylenol I already had prescribed to me. Other than taking and keeping records of my temperature and blood pressure no other medical care was provided.” Devlin-Brown Decl. Ex. 27 (Roberts Decl. ¶¶ 13-15).

47. Mr. Garcia reported that on “March 27, my head still hurt and I was covered in sweat. I had never had a headache that bad before. I told a female C.O. named Lupo that I was too sick to work that day. When the morning doctor, Joaquin, came to the unit that day, I told him I was sick. I told him I was sweating, I had a headache and my chest felt really tight. I also told him I wanted a COVID test. He wouldn’t give me a test and he didn’t check me for any symptoms and didn’t take my temperature. The only thing he said was that I should put in a sick call on the computer. That same day, March 27, after I spoke with him, I used the computer to put in the sick call, but I didn’t see a doctor. I was sick all weekend and into the next week. I was constantly coughing and I also felt a pain in my chest like someone was sticking me with needles. I wasn’t sweating the whole time, but some nights I would wake up sweating and sometimes I would sweat in the day. I never saw a doctor or a nurse during that time and didn’t get any treatment or medicine. At that time, we were still locked in our cells just about all day. My bunky started to complain about all the coughing. He kept saying I was going to get him sick.” Devlin-Brown Decl. Ex. 19 (Garcia Decl. ¶¶ 9-13).

B. Treatment of Inmates in Isolation

48. My review indicates that the clinical response to patients who are transferred into medical isolation is also grossly deficient. Dr. Beaudouin's testimony reveals that even when identified as needing isolation for suspected or confirmed COVID-19, patients at the MCC are unlikely to receive appropriate care. In his deposition, Dr. Beaudouin testified that the MCC does not have the capacity to create a COVID-19 infirmary and that consequently, the BOP's own guidance document for isolation practices is not being followed. *See* Kala Decl. Ex. 1 (Beaudouin Dep. Tr. 61:9-19). When asked about the ability to implement this guideline, Dr. Beaudouin responded "Yes-we do not have the resources to do it." *Id.* at 63:13-17.

49. MCC records and reports from inmates also make clear that the SHU was used to house COVID-19 cases. These housing units, which contain concrete beds, are grossly inappropriate for the treatment of any ill inmates, and particularly those suffering from COVID-19. *See* Kala Decl. Exs. 14 and 15 (photographs of empty SHU cell). The SHU is a unit that is typically meant as a place to house inmates for disciplinary purposes. Warden Licon-Vitale stated in her deposition that "the conditions for the inmates in the SHU are not as favorable as conditions in an ordinary cell." Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 64:14-18). Yet, the Warden was aware of no steps taken to ameliorate the harsh conditions of the SHU for inmates placed there for medical isolation. *See id.* at 65:15-18.

50. Reports from inmates confirm that treatment in isolation is medically inappropriate. Mr. Vinicius Andrade was part of the group of men who became ill with COVID-19 symptoms in late March, but unlike most of them, he was not kept in his housing area but transferred to the hospital, where he was tested and found positive for COVID-19, and then returned to the SHU. There, he was locked in a cell with a concrete bed and no sheets, pillow or blanket. As he described

it, “I lay on the concrete shaking. They had given me a big SHU jumpsuit to wear, so I took that off and used it as a pillow, but then I was just in my t-shirt and underwear so I was cold. I was not given any food until the next morning.” Devlin-Brown Decl. Ex. 6 (Andrade Decl. ¶ 6). He reported being in that cell for 15 days without clinical evaluations beyond temperature and blood pressure checks: “No one ever checked my chest or lungs. I could not smell anything. My muscles hurt. I got very depressed. The only water I had to drink was from the sink.” *Id.* ¶ 8. Mr. Terrell Brown reports that while he was isolated in the SHU, he and his cellmate were forced to rip up towels and clothes in order to clean their cell. Mr. Brown also had to cover the SHU’s solitary phone with a sock since the inmates were not provided with anything to clean it between uses. Devlin-Brown Decl. Ex. 11 (Brown Decl. ¶¶ 21, 23).

51. This lack of basic care flies in the face of elemental correctional health practices and even the BOP’s own pandemic influenza plan, which identifies a series of daily assessments for patients identified as being ill.

52. The conditions of the SHU not only increased the likelihood that patients with serious illness could worsen or die, it also created a strong disincentive for patients with COVID-19 symptoms to report being ill. Mr. Andrade reported “[w]hen I got back, a lot of guys were sick. No one wanted to report anything to medical because they did not want to go to the box and go through what I did. They said they would rather die in their beds because at least other people would be around them.” Devlin-Brown Decl. Ex. 6 (Andrade Decl. ¶ 12). Others have also expressed the same fear of being locked in the SHU for reporting signs of COVID-19. For example, after coughing in front of a guard, Mr. Randolph Bourgoïn was afraid that he would be put in the SHU. *See* Devlin-Brown Decl. Ex. 9 (Bourgoïn Decl. ¶ 4). Messrs. David Crosby and James Woodson have each reported that inmates would hide their symptoms for the same reason.

See Devlin-Brown Decl. Ex. 12 (Crosby Decl. ¶ 12); Devlin-Brown Decl. Ex. 5 (Woodson Decl. ¶ 15).

53. It also appears that by utilizing the solitary confinement area as medical isolation, the MCC may have allowed for transmission of COVID-19 from medical isolation patients to those in the SHU for segregation or punishment reasons. Mr. Antonio Smith was housed in the SHU from the end February 2020, and was aware that people with COVID-19 symptoms were being transferred into the unit. He reported that, “[a] few days after the sick inmates were transferred to the SHU, I began feeling sick. I felt very tired and found it difficult to move or even get out of bed. My eyes were swollen and tearing. My nose would not stop running. I had a cough that felt different from any cough I have had before. When I coughed instead of producing mucus, a clear sticky substance would come out. I lost my sense of taste and my appetite. I was sweating a lot. During my illness, I lost approximately 36 pounds.” Devlin-Brown Decl. Ex. 29 (Smith Decl. ¶ 8). Despite being ill, and even having pneumonia identified on an x-ray, he was never tested for COVID-19, ever had anyone listen to his lungs, and was even given a cellmate in the SHU. *Id.* at ¶¶ 9-11. At one point Mr. Smith was allowed to work on a cleaning detail and leave the unit when a passing health staffer recognized that he was ill and then initiated a 5 day quarantine. *Id.* ¶ 14.

54. Other inmates isolated on the 3rd floor of the MCC also reported inadequate medical care. Mr. Garcia, who was also placed into isolation, reported that “[t]he isolation area was on the 3rd floor of MCC. I was locked in a cell alone 24 hours a day. They would come around twice a day, 8am and 3:30pm, to take my temperature. There was no other testing or treatment. I never received a COVID test. The only medicine I received was a Ziploc bag with 12 Tylenols.” Devlin-Brown Decl. Ex. 19 (Garcia Decl. ¶ 19). Mr. Richard Michel reported that, even in isolation, “[w]henever anyone was sick and tried to get the attention of staff to report their symptoms or ask

to see a doctor, it was often hard to get the attention of a CO. Many inmates who wanted to see a doctor were not taken to see a doctor.” Devlin-Brown Decl. Ex. 25 (Michel Decl. ¶ 7).

55. Finally, post-isolation care for recovering inmates appears practically non-existent. When inmates are removed from isolation they are often returned to open dormitories where they are unable to engage in social distancing. Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 203-04). What is more, they not provided with any follow-up medical care, nor are their symptoms closely tracked. *Id.* at 168:3-21. Mr. Beniquez’s cellmate, for example, still showed symptoms after he was returned from isolation to his regular unit. *See* Devlin-Brown Decl. Ex. 8 (Beniquez Decl. ¶ 10).

VI. Assessment of the MCC’s Mitigation Practices to Slow the Spread of COVID-19

56. As discussed in the preceding paragraphs, the spread of COVID-19 throughout the MCC has been driven by the MCC’s failure to properly screen its inmates for symptoms of COVID-19, as well as its failures to appropriately quarantine, isolate, and test inmates. In addition to these issues, the MCC’s lack of adequate sanitation and hygiene practices impacted the spread of COVID-19 within the facility.

57. Based on my physical inspection of the MCC, it is my assessment that several current practices in MCC actually promote a more rapid spread of COVID-19 inside the facility and serve to work against some of the infection control measures already in place.

58. The CDC has identified basic guidelines for infection control and overall COVID-19 response in detention settings, many of which the MCC appears to have ignored. For example, I would have expected—at minimum—that the MCC had sufficient levels of personal protective equipment (“PPE”), cleaning solution and equipment, an adequate quantity of tests available, that

common, high-touch surfaces such as phones and computers would be cleaned between uses, and that no-touch waste receptacles would be present in the facility common areas and housing areas.

59. Detainees I spoke with reported a lack of access to basic soap and hand washing supplies. Mr. Barnes, who is 73 with heart disease, reported, “[w]e do not have enough soap or cleaning products. We receive a hygiene kit once a month. It contains a small portion of soap that we each must use for our hands and bodies. I personally have little or no money coming in for commissary, and I have been forced to borrow a bar of soap when my kit has run out and I have no money. I have asked for more soap several times but have been told that it is unavailable because it is locked upstairs in the unit counselor’s office. I received the same response when I requested additional toilet paper.” Devlin-Brown Decl. Ex. 7 (Barnes Decl. ¶ 5).

60. Detainees that I spoke with or whose declarations I reviewed indicated significant gaps in access to cleaning solutions, with some reporting that they receive insufficient cleaning solution for their cell area. Mr. Dones reported that the “MCC does not give us cleaning materials for our cells. The only cleaning implements available in my unit are a broom, dustpan, and dirty mop. The mop is so dirty that it is worse than nothing.” Devlin-Brown Decl. Ex. 16 (Dones Decl. ¶ 7). Mr. Michael Falu reported that “[n]o one, however, cleans or disinfects our cells, or provides us with the supplies to do so. We ask for cleaning supplies all the time. There are three phones and five e-mail terminals shared by everyone in the unit. No cleaning supplies are provided to clean the phones or the e-mail terminals between use. When I use the phone, I try to cover it with a sock or toilet paper.” Devlin-Brown Decl. Ex. 17 (Falu Decl. ¶¶ 10-11). Mr. Tyler Toro reports that he also has not been given cleaning supplies to sanitize phones or computers, and that he cannot use his “two travel sized pieces of soap” for that purpose. Devlin-Brown Decl. Ex. 32 (Toro Decl. ¶ 27). Even when the MCC does supply cleaning materials, they often do so in such

small volumes that they run out quickly. *See* Devlin-Brown Decl. Ex. 7 (Barnes Decl. ¶ 5). The facility also does not provide sufficient rags and clothes. Instead, inmates are forced to “rip their old towels up to make cloths,” which are then used for every surface. Devlin-Brown Decl. Ex. 12 (Crosby Decl. ¶ 18).

61. The lack of basic infection control extended to failing to initiate any additional cleaning when a person was identified with COVID-19 and transferred to medical isolation or the hospital. The CDC has clear guidance on the extra measures to be taken in these situation, none of which appear to occur at the MCC. For example, when Mr. Andrade returned to his original housing area, he reports that “[t]he inmates in my tier gave me a plastic bag that they had put my blanket and sheet in so they did not spread the infection. But everything else was just the same, and the guys in my tier said no one had come to clean or given them any extra cleaning supplies.” Devlin-Brown Decl. Ex. 6 (Andrade Decl. ¶ 11). Likewise, when I talked to Robert Russo, an inmate from 11 South, he reported that when he was returned from medical isolation, no one had sanitized his tier or even replaced his bedding.

62. The MCC also appears to have given little effort to implementing any social distancing. Nowhere is this more true than 11 South. Multiple inmates housed there report that the dorms provide “no possibility of social distancing.” *See, e.g.*, Devlin-Brown Decl. Ex. 33 (Turner Decl. ¶ 21). Inmates sleep on bunk beds within an arm’s reach of each other. Mr. Turner reports that this means he has five inmates sleeping within six feet of him. *Id.* ¶ 4. Inmates in the dorms share a single urinal, toilet, sink, and shower. *See* Devlin-Brown Decl. Ex. 7 (Barnes Decl. ¶ 4). The two tables each have four chairs attached to them, meaning that inmates cannot distance from each other while eating. *Id.* Meals and medication are also doled out from the gate, which

forces the inmates to gather together to collect their items. *See* Devlin-Brown Decl. Ex. 10 (Bradley Decl. ¶ 11).

63. The use of masks by staff also appears to be poorly implemented. Mr. Andrade reported that “[o]fficers all have masks, but they often leave them around their neck, even when we are out in the unit.” Devlin-Brown Decl. Ex. 6 (Andrade Decl. ¶ 13). Mr. Anthony Luna also confirms that “[n]ot all of the staff wear their masks at all times.” *See* Devlin-Brown Decl. Ex. 22 (Luna Decl. ¶ 18). Mr. Rodney Griffin has observed a staff member “coughing without covering her mouth or wearing a face mask.” Devlin-Brown Decl. Ex. 20 (Griffin Decl. ¶ 16). Tellingly, Warden Licon-Vitale also has acknowledged that she has observed staff around the facility not properly wearing their masks. *See* Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 78:13-21).

64. The MCC appears to have dedicated considerable resources to preparation for the facility inspection instead of consistent infection control practices as outlined by the CDC. Many of the declarations I reviewed reported a hasty spate of cleaning and other efforts in the days before the inspection of May 13, with little sustained effort before or after. As Mr. Karimbux stated, “[b]efore the inspection by the doctor last week, the officers ordered the orderlies to scrub the unit, and they put up signs about COVID, and they made us all wear our masks. I also saw that a staff person came around and sanitized the unit with a backpack and a hose full of some kind of spray while the inspection was happening. That has never been done on our unit before or since.” Devlin-Brown Decl. Ex. 21 (Karimbux Decl. ¶ 12). Mr. Sucich reported that “[t]oday when the inspector came, the CO came through and was spraying the bars of the dormitory with disinfectant. That had never happened before.” Devlin-Brown Decl. Ex. 31 (Sucich Decl. ¶ 13).

65. It also appears that the MCC posted additional signs in anticipation of the inspection. During my tour, Tiffany Days, an inmate in the Women’s Unit, told me that posters

had been put up informing the inmates that soap was available upon request. Ms. Days informed me that this was not true. Mr. Woodson also reported that, shortly before the inspection, signs were posted on his unit's "bubble" falsely claiming that "soap, toilet paper, cleaning supplies [sic], and masks" were available there, which they weren't. Kala Decl. Ex. 9 (Woodson Dep. Tr. at 39:20-25). Similarly, Mr. Jorge Soto reported that "[l]ast week, inspectors visited the jail. The day before they came, the jail put up signs saying if we need anything to clean our cell, ask the officer. This was strange because we couldn't get any materials to clean our cells before." Devlin-Brown Decl. Ex. 30 (Soto Decl. ¶ 8).

VII. Assessment of the MCC's Efforts to Identify and Protect Detainees Particularly Vulnerable to the Effects of COVID-19 Due to High-Risk Factors

66. Based on my physical inspection of the MCC, it is my assessment that current practices do not adequately identify and protect detainees who are particularly vulnerable to the effects of COVID-19 due to their high-risk underlying medical conditions. This is despite the fact that the facility is aware that many such high-risk detainees exist.

67. According to the CDC, people who are "high-risk" include those who are older; people with diabetes, asthma, coronary artery disease, and hypertension; and people who are immunocompromised, severely obese (body mass index [BMI] of 40 or higher), have chronic kidney disease, and smokers.¹¹

68. Warden Licon-Vitale and Acting Warden Hazelwood each testified that patients with more serious health problems had been intentionally placed into 11 South. *See* Kala Decl. Ex. 7 (Licon-Vitale Dep. Tr. at 69:4-19); Kala Decl. Ex. 6 (Hazelwood Dep. Tr. at 57:7-11).

¹¹ *See People Who Are at Higher Risk for Severe Illness*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last reviewed May 14, 2020).

Associate Warden Edge likewise testified that, “we did try to group all of those quote/unquote high risk inmates together in one location [on 11 South] as opposed to throughout the institution,” Kala Decl. Ex. 2 (Edge Dep. Tr. at 165:11-20), and Dr. Beaudouin stated that “most” of the people who were high-risk for serious illness or death from COVID-19 were on 11 South, Kala Decl. Ex. 1 (Beaudouin Dep. Tr. at 84:21-24). While cohorting medically vulnerable inmates may be an appropriate measure, the benefits of cohorting are poorly served by quarantining vulnerable persons in close quarters and ignoring basic infection control practices, particularly when inmates and staff that are not regularly tested for COVID-19 are introduced to the unit. The tiers on 11 South were medically inappropriate for such purposes.

69. During my visit to the MCC, I encountered several patients with risk factors for serious illness or death from COVID-19, including Mr. Miller, Mr. Ruffin, Mr. Cooper, and Mr. Cotroneau, and it was apparent that they had not been identified to receive any additional protection or surveillance for COVID-19 symptoms.

70. I also spoke with Mr. Nicolas Sucich, housed on 11 South, and reviewed his declaration and a transcript of his deposition. He has several chronic health problems that clearly identify him as high risk based on CDC criteria. He reported that he experienced COVID-19 symptoms within in his housing area: “I lost my taste and smell for several days and I was shivering and convulsing with fever.” Devlin-Brown Decl. Ex. 31 (Sucich Decl. ¶ 10). He also reported that “[d]uring those three days that I was extremely sick no doctors came to check on me. I have had a lot of trouble breathing since then.” *Id.*

71. As discussed in Paragraph 17, 11 South is comprised of extremely cramped bunk areas, housing 26 men in a low ceiling, small space that includes one toilet per 26 man pod. This housing area had no PPE cart outside or near the unit entry and was infested with roaches during

our visit. No social distancing was possible inside the small bunk areas, where men reported being locked for extended periods of time. I observed phones being used in this unit without any cleaning occurring in between uses. These conditions likely increase the spread of COVID-19 among the high risk patients placed onto this unit.

72. There did not appear to be any regular screening of the high-risk patients held on this unit. Several detained people I spoke with on this unit, including Nicolas Sucich, David Crosby, and Lenin Guzman-Hidalgo, reported intermittent temperature checks, but no screenings that occurred every day and no screenings that included questions about the symptoms of COVID-19.

73. Despite being on a high-risk unit, detainees I spoke with on 11 South reported that their sick call requests submitted to medical were often ignored or took days to weeks for a response, even when reporting symptoms of COVID-19.

74. Detainees on 11 South reported that when they returned from Otisville (after being sent there when the MCC reduced its population over a security incident), several of them became ill with COVID-19 symptoms. Several reported that nurses checked their temperature, found them to have fevers, and left them on the unit. These men report that they had to stay in their small pod areas on 11 South for the duration of their acute COVID-19 illness, watching the other people around them become ill within days.

VIII. Minimum Expectations of Correctional Best Practices

75. Given the severity of the COVID-19 outbreak, and the clear guidelines outlined by the CDC, I would have expected that MCC implemented the following simple procedures in order to slow the spread of COVID-19:

- a. Screening of all inmates for COVID-19 signs and symptoms on a twice-daily basis if they are in isolation or quarantine and on a twice-weekly basis otherwise. Inmates should also be provided with a daily opportunity to report any symptoms of COVID-19, and records of those reports should be maintained;
- b. Evaluating all inmates who report symptoms of COVID-19 within 24 hours of the inmate's report;
- c. Administering COVID-19 testing of all inmates:
 - i. with signs and/or symptoms of COVID-19, unless a clear alternative rationale is documented, even when individual temperatures are within normal limits;
 - ii. who have been in close contact with an inmate who is positive for, or has symptoms of, COVID-19;
 - iii. who are being newly admitted to the facility or are returning from outside the facility;
 - iv. who possess risk factors for serious illness or death from COVID-19, as defined by the CDC; and
 - v. who are to be released from quarantine;
- d. COVID-19 testing of staff who possess (i) risk factors for serious illness or death from COVID-19; (ii) any signs and/or symptoms of COVID-19; or (iii) who have been exposed to an individual with COVID-19 signs or symptoms;
- e. Tracing close contacts of staff and inmates who test positive for COVID-19 or have symptoms of COVID-19. Records of each contact tracing investigation should be recorded and preserved;

- f. Adopting a standardized COVID-19 surveillance tool which includes COVID-19 symptoms and signs, including temperature checks, to be administered twice daily by medical staff to all incarcerated persons in quarantine and isolation, and to be administered twice weekly by medical staff to all other inmates;
- g. Isolating any inmate displaying COVID-19 symptoms in housing not typically used for disciplinary purposes, even when temperature is within normal limits, not later than 12 hours after a positive test or staff becoming aware of such symptoms;
- h. For all patients who are suspected or confirmed to have COVID-19, performing a standardized clinical evaluation at least daily by nursing staff in a clinical setting and not cell-side;
- i. Reviewing on a same-day basis every sick-call paper request 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;
- j. Decreasing the number of people in 11 South by 50% of capacity and in any other area where high-risk patients are housed to allow for social distancing of 6 feet or more, including sleeping, meals, medication administration, and other activities;
- k. Immediately addressing the infestation of mice, rats and roaches in the MCC;
- l. Quarantining all close contacts of inmates and staff with COVID-19 in accordance with CDC guidelines;
- m. Ensuring all isolation units follow CDC guidelines for management of COVID-19 including the use of appropriate PPE, cleaning of common surfaces, and exclusion of individuals not suspected to or confirmed to have COVID-19;

- n. Requiring that all staff wear personal protective equipment, including masks, when interacting with any person or when touching surfaces in cells or common areas; this PPE must include N95 masks if it involves interaction with inmates in medical isolation and any quarantine or other settings when interacting with patients suspected of having COVID-19;
 - o. Providing sufficient disinfecting supplies, free of charge, so incarcerated people can clean high-touch areas or items (including, but not limited to, phones and computers) between each use;
 - p. Ensuring that each incarcerated person receives, free of charge, masks effective at preventing the transmission of COVID-19, adequate personal hygiene supplies for hand washing, disinfectant products effective against COVID-19 for daily cleanings, and access to daily showers and daily access to clean laundry;
 - q. Providing weekly COVID-19 information sessions for detainees and correctional staff by a member of the MCC health team that cover the status of the outbreak and efforts to mitigate the spread of COVID-19, with the opportunity for detainees and staff to ask questions.
76. I recommend that MCC implements these practices as soon as possible.
77. I may develop additional recommendations as I review any supplemental materials or testimony in this case.
78. Based on the above considerations, it is evident that the MCC has failed to implement numerous best-practices derived from the CDC guidelines as well as outbreak best practices. Such practices would increase the health and safety of correctional staff, detainees and the general population.

79. I am therefore concerned about the ongoing health and safety of the population at the MCC, and the likelihood of the continued spread of COVID-19 therein.

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

Executed: May 26, 2020
Port Washington, New York



Dr. Homer S. Venters

APPENDIX A

Dr. Homer D. Venters

10 ½ Jefferson St., Port Washington, NY, 11050
hventers@gmail.com, Phone: 646-734-5994

HEALTH ADMINISTRATOR PHYSICIAN EPIDEMIOLOGIST

Professional Profile

- International leader in provision and improvement of health services to patients with criminal justice involvement.
- Innovator in linking care of the incarcerated to Medicaid, health homes, DSRIPs.
- Successful implementer of nations' first electronic health record, performance dashboards and health information exchange among pre-trial patients.
- Award winning epidemiologist focused on the intersection of health, criminal justice and human rights in the United States and developing nations.
- Human rights leader with experience using forensic science, epidemiology and public health methods to prevent and document human rights abuses.

Professional Experience

Medical/Forensic Expert, 3/2016-present

- Review COVID-19 policies and procedures in detention settings.
- Conduct analysis of health services and outcomes in detention settings.
- Conduct site inspections and evaluations in detention settings.
- Produce expert reports, testimony regarding detention settings.

President, Community Oriented Correctional Health Services (COCHS), 1/1/2020-4/30/20.

- Lead COCHS efforts to provide technical assistance, policy guidance and research regarding correctional health and justice reform.
- Oversee operations and programmatic development of COCHS
- Serve as primary liaison between COCHS board, funders, staff and partners.

Senior Health and Justice Fellow, Community Oriented Correctional Health Services (COCHS), 12/1/18-12/31/2018

- Lead COCHS efforts to expand Medicaid waivers for funding of care for detained persons relating to Substance Use and Hepatitis C.
- Develop and implement COCHS strategy for promoting non-profit models of diversion and correctional health care.

Director of Programs, Physicians for Human Rights, 3/16-11/18.

- Lead medical forensic documentation efforts of mass crimes against Rohingya and Yazidi people.
- Initiate vicarious trauma program.
- Expand forensic documentation of mass killings and war crimes.
- Develop and support sexual violence capacity development with physicians, nurses

and judges.

- Expand documentation of attacks against health staff and facilities in Syria and Yemen.

Chief Medical Officer/Assistant Vice President, Correctional Health Services, NYC Health and Hospitals Corporation 8/15-3/17.

- Transitioned entire clinical service (1,400 staff) from a for-profit staffing company model to a new division within NYC H + H.
- Developed new models of mental health and substance abuse care that significantly lowered morbidity and other adverse events.
- Connected patients to local health systems, DSRIP and health homes using approximately \$5 million in external funding (grants available on request).
- Reduced overall mortality in the nation's second largest jail system.
- Increased operating budget from \$140 million to \$160 million.
- Implemented nation's first patient experience, provider engagement and racial disparities programs for correctional health.

Assistant Commissioner, Correctional Health Services, New York Department of Health and Mental Hygiene, 6/11-8/15.

- Implemented nation's first electronic medical record and health information exchange for 1,400 staff and 75,000 patients in a jail.
- Developed bilateral agreements and programs with local health homes to identify incarcerated patients and coordinate care.
- Increased operating budget of health service from \$115 million to \$140 million.
- Established surveillance systems for injuries, sexual assault and mental health that drove new program development and received American Public Health Association Paper of the Year 2014.
- Personally care for and reported on over 100 patients injured during violent encounters with jail security staff.

Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 1/10-6/11.

- Directed all aspects of medical care for 75,000 patients annually in 12 jails, including specialty, dental, primary care and emergency response.
- Direct all aspects of response to infectious outbreaks of H1N1, Legionella, Clostridium Difficile.
- Developed new protocols to identify and report on injuries and sexual assault among patients.

Deputy Medical Director, Correctional Health Services, New York Department of Health and Mental Hygiene, 11/08-12/09.

- Developed training program with Montefiore Social internal medicine residency program.
- Directed and delivered health services in 2 jails.

Clinical Attending Physician, Bellevue/NYU Clinic for Survivors of Torture, 10/07-12/11.

Clinical Attending Physician, Montefiore Medical Center Bronx NY, Adult Medicine, 1/08-11/09.

Education and Training

Fellow, Public Health Research, New York University 2007-2009. MS 6/2009
Projects: Health care for detained immigrants, Health Status of African immigrants in NYC.

Resident, Social Internal Medicine, Montefiore Medical Center/Albert Einstein University 7/2004- 5/2007.

M.D., University of Illinois, Urbana, 12/2003.

M.S. Biology, University of Illinois, Urbana, 6/03.

B.A. International Relations, Tufts University, Medford, MA, 1989.

Academic Appointments, Licensure

Clinical Associate Professor, New York University College of Global Public Health, 5/18-present.

Clinical Instructor, New York University Langone School of Medicine, 2007-2018.

M.D. New York (2007-present).

Media

TV

i24 Crossroads re Suicide in U.S. Jails 8/13/19.

i24 Crossroads re re *Life and Death in Rikers Island* 6/13/19.

Amanpour & Company, NPR/PBS re *Life and Death in Rikers Island* 4/15/19.

CNN, Christiane Amanpour re Forensic documentation of mass crimes against Rohingya. 7/11/18.

i24 Crossroads with David Shuster re health crisis among refugees in Syria. 7/6/18.

Canadian Broadcasting Corporation TV with Sylvie Fournier (in French) re crowd control weapons. 5/10/18

i24 Crossroads with David Shuster re Cholera outbreak in Yemen. 2/15/18.

China TV re WHO guidelines on HIV medication access 9/22/17.

Radio/Podcast

Morning Edition, NPR re Health Risks of Criminal Justice System. 8/9/19.

Fresh Air with Terry Gross, NPR re *Life and Death in Rikers Island*, 3/6/19.

Morning Edition, NPR re *Life and Death in Rikers Island*, 2/22/19.

LeShow with Harry Sherer re forensic documentation of mass crimes in Myanmar, Syria, Iraq. 4/17/18.

Print articles and public testimony

Oped: Four ways to protect our jails and prisons from coronavirus. *The Hill* 2/29/20.

Oped: It's Time to Eliminate the Drunk Tank. *The Hill* 1/28/20.

Oped: With Kathy Morse. A Visit with my Incarcerated Mother. *The Hill* 9/24/19.

Oped: With Five Omar Muallim-Ak. The Truth about Suicide Behind Bars is Knowable. *The Hill* 8/13/19.

Oped: With Katherine McKenzie. Policymakers, provide adequate health care in prisons and detention centers. *CNN Opinion*, 7/18/19.

Oped: Getting serious about preventable deaths and injuries behind bars. *The Hill*, 7/5/19.

Testimony: Access to Medication Assisted Treatment in Prisons and Jails, New York State Assembly Committee on Alcoholism and Drug Abuse, Assembly Committee on Health, and Assembly Committee on Correction. NY, NY, 11/14/18.

Oped: Attacks in Syria and Yemen are turning disease into a weapon of war, *STAT News*, 7/7/17.

Testimony: Connecticut Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for prisoners. Hartford CT, 2/3/17.

Testimony: Venters HD, New York Advisory Committee to the U.S. Commission on Civil Rights: Regarding the use of solitary confinement for juveniles in New York. July 10, 2014. NY NY.

Testimony: New York State Assembly Committee on Correction with the Committee on

Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.

Testimony: New York State Assembly Committee on Correction with the Committee on Mental Health: Regarding Mental Illness in Correctional Settings. November 13, 2014. Albany NY.

Oped: Venters HD and Keller AS, The Health of Immigrant Detainees. Boston Globe, April 11, 2009.

Testimony: U.S. House of Representatives, House Judiciary Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law: Hearing on Problems with Immigration Detainee Medical Care, June 4, 2008.

Peer Reviewed Publications

Parmar PK, Leigh J, **Venters H**, Nelson T. Violence and mortality in the Northern Rakhine State of Myanmar, 2017: results of a quantitative survey of surviving community leaders in Bangladesh. *Lancet Planet Health*. 2019 Mar;3(3):e144-e153.

Venters H. Notions from Kavanaugh hearings contradict medical facts. *Lancet*. 10/5/18.

Taylor GP, Castro I, Rebergen C, Rycroft M, Nuwayhid I, Rubenstein L, Tarakji A, Modirzadeh N, **Venters H**, Jabbour S. Protecting health care in armed conflict: action towards accountability. *Lancet*. 4/14/18.

Katyal M, Leibowitz R, **Venters H**. IGRA-Based Screening for Latent Tuberculosis Infection in Persons Newly Incarcerated in New York City Jails. *J Correct Health Care*. 2018 4/18.

Harocopos A, Allen B, Glowka-Kollisch S, **Venters H**, Paone D, Macdonald R. The Rikers Island Hot Spotters: Exploring the Needs of the Most Frequently Incarcerated. *J Health Care Poor Underserved*. 4/28/17.

MacDonald R, Akiyama MJ, Kopolow A, Rosner Z, McGahee W, Joseph R, Jaffer M, **Venters H**. Feasibility of Treating Hepatitis C in a Transient Jail Population. *Open Forum Infect Dis*. 7/7/18.

Siegler A, Kaba F, MacDonald R, **Venters H**. Head Trauma in Jail and Implications for Chronic Traumatic Encephalopathy. *J Health Care Poor and Underserved*. In Press (May 2017).

Ford E, Kim S, **Venters H**. Sexual abuse and injury during incarceration reveal the need for re-entry trauma screening. *Lancet*. 4/8/18.

Alex B, Weiss DB, Kaba F, Rosner Z, Lee D, Lim S, **Venters H**, MacDonald R. Death After Jail Release. *J Correct Health Care*. 1/17.

Akiyama MJ, Kaba F, Rosner Z, Alper H, Kopolow A, Litwin AH, **Venters H**, MacDonald R. Correlates of Hepatitis C Virus Infection in the Targeted Testing Program of the New York City Jail System. *Public Health Rep.* 1/17.

Kalra R, Kollisch SG, MacDonald R, Dickey N, Rosner Z, **Venters H**. Staff Satisfaction, Ethical Concerns, and Burnout in the New York City Jail Health System. *J Correct Health Care.* 2016 Oct;22(4):383-392.

Venters H. A Three-Dimensional Action Plan to Raise the Quality of Care of US Correctional Health and Promote Alternatives to Incarceration. *Am J Public Health.* April 2016.104.

Glowa-Kollisch S, Kaba F, Waters A, Leung YJ, Ford E, **Venters H**. From Punishment to Treatment: The “Clinical Alternative to Punitive Segregation” (CAPS) Program in New York City Jails. *Int J Env Res Public Health.* 2016. 13(2),182.

Jaffer M, Ayad J, Tungol JG, MacDonald R, Dickey N, Venters H. Improving Transgender Healthcare in the New York City Correctional System. *LGBT Health.* 2016 1/8/16.

Granski M, Keller A, Venters H. Death Rates among Detained Immigrants in the United States. *Int J Env Res Public Health.* 2015. 11/10/15.

Michelle Martelle, Benjamin Farber, Richard Stazesky, Nathaniel Dickey, Amanda Parsons, **Homer Venters**. Meaningful Use of an Electronic Health Record in the NYC Jail System. *Am J Public Health.* 2015. 8/12/15.

Fatos Kaba, Angela Solimo, Jasmine Graves, Sarah Glowa-Kollisch, Allison Vise, Ross MacDonald, Anthony Waters, Zachary Rosner, Nathaniel Dickey, Sonia Angell, **Homer Venters**. Disparities in Mental Health Referral and Diagnosis in the NYC Jail Mental Health Service. *Am J Public Health.* 2015. 8/12/15.

Ross MacDonald, Fatos Kaba, Zachary Rosner, Alison Vise, Michelle Skerker, David Weiss, Michelle Brittner, Nathaniel Dickey, **Homer Venters**. The Rikers Island Hot Spotters. *Am J Public Health.* 2015. 9/17/15.

Selling Molly Skerker, Nathaniel Dickey, Dana Schonberg, Ross MacDonald, **Homer Venters**. Improving Antenatal Care for Incarcerated Women: fulfilling the promise of the Sustainable Development Goals. *Bulletin of the World Health Organization.*2015.

Jasmine Graves, Jessica Steele, Fatos Kaba, Cassandra Ramdath, Zachary Rosner, Ross MacDonald, Nathaniel Dickey, **Homer Venters**. Traumatic Brain Injury and Structural Violence among Adolescent males in the NYC Jail System *J Health Care Poor Underserved.* 2015;26(2):345-57.

Glowa-Kollisch S, Graves J, Dickey N, MacDonald R, Rosner Z, Waters A, **Venters H**. Data-Driven Human Rights: Using Dual Loyalty Trainings to Promote the Care of Vulnerable Patients in Jail. *Health and Human Rights.* Online ahead of print, 3/12/15.

Teixeira PA¹, Jordan AO, Zaller N, Shah D, **Venters H**. Health Outcomes for HIV-Infected Persons Released From the New York City Jail System With a Transitional Care-Coordination

Plan. 2014. *Am J Public Health*. 2014 Dec 18.

Selling D, Lee D, Solimo A, **Venters H**. A Road Not Taken: Substance Abuse Programming in the New York City Jail System. *J Correct Health Care*. 2014 Nov 17.

Glowa-Kollisch S, Lim S, Summers C, Cohen L, Selling D, **Venters H**. Beyond the Bridge: Evaluating a Novel Mental Health Program in the New York City Jail System. *Am J Public Health*. 2014 Sep 11.

Glowa-Kollisch S, Andrade K, Stazesky R, Teixeira P, Kaba F, MacDonald R, Rosner Z, Selling D, Parsons A, **Venters H**. Data-Driven Human Rights: Using the Electronic Health Record to Promote Human Rights in Jail. *Health and Human Rights*. 2014. Vol 16 (1): 157-165.

MacDonald R, Rosner Z, **Venters H**. Case series of exercise-induced rhabdomyolysis in the New York City Jail System. *Am J Emerg Med*. 2014. Vol 32(5): 446-7.

Bechelli M, Caudy M, Gardner T, Huber A, Mancuso D, Samuels P, Shah T, **Venters H**. Case Studies from Three States: Breaking Down Silos Between Health Care and Criminal Justice. *Health Affairs*. 2014. Vol. 3. 33(3):474-81.

Selling D, Solimo A, Lee D, Horne K, Panove E, **Venters H**. Surveillance of suicidal and non-suicidal self-injury in the new York city jail system. *J Correct Health Care*. 2014. Apr:20(2).

Kaba F, Diamond P, Haque A, MacDonald R, **Venters H**. Traumatic Brain Injury Among Newly Admitted Adolescents in the New York City Jail System. *J Adolesc Health*. 2014. Vol 54(5): 615-7.

Monga P, Keller A, **Venters H**. Prevention and Punishment: Barriers to accessing health services for undocumented immigrants in the United States. *LAWS*. 2014. 3(1).

Kaba F, Lewsi A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, **Venters H**. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health*. 2014. Vol 104(3):442-7.

MacDonald R, Parsons A, **Venters H**. The Triple Aims of Correctional Health: Patient safety, Population Health and Human Rights. *Journal of Health Care for the Poor and Underserved*. 2013. 24(3).

Parvez FM, Katyal M, Alper H, Leibowitz R, **Venters H**. Female sex workers incarcerated in New York City jails: prevalence of sexually transmitted infections and associated risk behaviors. *Sexually Transmitted Infections*. 89:280-284. 2013.

Brittain J, Axelrod G, **Venters H**. Deaths in New York City Jails: 2001 – 2009. *Am J Public Health*. 2013 103:4.

Jordan AO, Cohen LR, Harriman G, Teixeira PA, Cruzado-Quinones J, **Venters H**. Transitional Care Coordination in New York City Jails: Facilitating Linkages to Care for People with HIV Returning Home from Rikers Island. *AIDS Behav*. Nov. 2012.

Jaffer M, Kimura C, **Venters H**. Improving medical care for patients with HIV in New York City jails. *J Correct Health Care*. 2012 Jul;18(3):246-50.

Ludwig A, Parsons, A, Cohen, L, **Venters H**. Injury Surveillance in the NYC Jail System, *Am J Public Health* 2012 Jun;102(6).

Venters H, Keller, AS. *Psychiatric Services*. (2012) Diversion of Mentally Ill Patients from Court-ordered care to Immigration Detention. Epub. 4/2012.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2011) Mental Health Concerns Among African Immigrants. 13(4): 795-7.

Venters H, Foote M, Keller AS. *Journal of Immigrant and Minority Health*. (2010) Medical Advocacy on Behalf of Detained Immigrants. 13(3): 625-8.

Venters H, McNeely J, Keller AS. *Health and Human Rights*. (2010) HIV Screening and Care for Immigration Detainees. 11(2) 91-102.

Venters H, Keller AS. *Journal of Health Care for the Poor and Underserved*. (2009) The Immigration Detention Health Plan: An Acute Care Model for a Chronic Care Population. 20:951-957.

Venters H, Gany, F. *Journal of Immigrant and Minority Health* (2009) African Immigrant Health. 4/4/09.

Venters H, Dasch-Goldberg D, Rasmussen A, Keller AS, *Human Rights Quarterly* (2009) Into the Abyss: Mortality and Morbidity among Detained Immigrant. 31 (2) 474-491.

Venters H, *The Lancet* (2008) Who is Jack Bauer? 372 (9653).

Venters H, Lainer-Vos J, Razvi A, Crawford J, Shafer on Venable P, Drucker EM, *Am J Public Health* (2008) Bringing Health Care Advocacy to a Public Defender's Office. 98 (11).

Venters H, Razvi AM, Tobia MS, Drucker E. *Harm Reduct J*. (2006) The case of Scott Ortiz: a clash between criminal justice and public health. *Harm Reduct J*. 3:21

Cloez-Tayarani I, Petit-Bertron AF, **Venters HD**, Cavaillon JM (2003) *Internat. Immunol*. Differential effect of serotonin on cytokine production in lipopolysaccharide-stimulated human peripheral blood mononuclear cells. 15,1-8.

Strle K, Zhou JH, Broussard SR, **Venters HD**, Johnson RW, Freund GG, Dantzer R, Kelley KW, (2002) *J. Neuroimmunol*. IL-10 promotes survival of microglia without activating Akt. 122, 9-19.

Venters HD, Broussard SR, Zhou JH, Bluth RM, Freund GG, Johnson RW, Dantzer R, Kelley KW, (2001) *J. Neuroimmunol*. Tumor necrosis factor(alpha) and insulin-like growth factor-I in the brain: is the whole greater than the sum of its parts? 119, 151-65.

Venters HD, Dantzer R, Kelley KW, (2000) *Ann. N. Y. Acad. Sci*. Tumor necrosis factor-alpha

induces neuronal death by silencing survival signals generated by the type I insulin-like growth factor receptor. 917, 210-20.

Venters HD, Dantzer R, Kelley KW, (2000) *Trends. Neurosci.* A new concept in neurodegeneration: TNFalpha is a silencer of survival signals. 23, 175-80.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd, (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142.

Venters HD, Tang Q, Liu Q, VanHoy RW, Dantzer R, Kelley KW, (1999) *Proc. Natl. Acad. Sci. USA.* A new mechanism of neurodegeneration: A proinflammatory cytokine inhibits receptor signaling by a survival peptide, 96, 9879-9884.

Venters HD, Ala TA, Frey WH 2nd, (1998) Inhibition of antagonist binding to human brain muscarinic receptor by vanadium compounds. *Recept. Signal. Transduct.* 7, 137-142.

Venters HD, Bonilla LE, Jensen T, Garner HP, Bordayo EZ, Najarian MM, Ala TA, Mason RP, Frey WH 2nd, (1997) Heme from Alzheimer's brain inhibits muscarinic receptor binding via thiyl radical generation. *Brain. Res.* 764, 93-100.

Kjome JR, Swenson KA, Johnson MN, Bordayo EZ, Anderson LE, Klevan LC, Fraticelli AI, Aldrich SL, Fawcett JR, **Venters HD**, Ala TA, Frey WH 2nd (1997) Inhibition of antagonist and agonist binding to the human brain muscarinic receptor by arachidonic acid. *J. Mol. Neurosci.* 10, 209-217.

Honors and Presentations (past 10 years)

Keynote Address, Academic Correctional Health Conference, April 2020, Chapel Hill, North Carolina.

TedMed Presentation, Correctional Health, Boston MA, March 2020.

Finalist, Prose Award for Literature, Social Sciences category for *Life and Death in Rikers Island*, February, 2020.

Keynote Address, John Howard Association Annual Benefit, November 2019, Chicago IL.

Keynote Address, Kentucky Data Forum, Foundation for a Healthy Kentucky, November 2019, Cincinnati Ohio.

Oral Presentation, Dual loyalty and other human rights concerns for physicians in jails and prisons. Association of Correctional Physicians, Annual meeting. 10/16, Las Vegas.

Oral Presentation, Clinical Alternatives to Punitive Segregation: Reducing self-harm for

incarcerated patients with mental illness. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Analysis of Deaths in ICE Custody over 10 Years . American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Medication Assisted Therapies for Opioid Dependence in the New York City Jail System. American Public Health Association Annual Meeting, November 2015, Chicago IL.

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. American Public Health Association Annual Meeting, November 2014, New Orleans, LA.

Training, International Committee of the Red Cross and Red Crescent, Medical Director meeting 10/15, Presentation on Human Rights and dual loyalty in correctional health.

Paper of the Year, American Public Health Association. 2014. (Kaba F, Lewis A, Glowa-Kollisch S, Hadler J, Lee D, Alper H, Selling D, MacDonald R, Solimo A, Parsons A, Venters H. Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *Amer J Public Health*. 2014. Vol 104(3):442-7.)

Oral Presentation, Pathologizing Normal Human Behavior: Violence and Solitary Confinement in an Urban Jail. *American Public Health Association Annual Meeting*, New Orleans LA, 2014.

Oral Presentation, Human rights at Rikers: Dual loyalty among jail health staff. American Public Health Association Annual Meeting, New Orleans LA, 2014.

Poster Presentation, Mental Health Training for Immigration Judges. American Public Health Association Annual Meeting, New Orleans LA, 2014.

Distinguished Service Award; Managerial Excellence. Division of Health Care Access and Improvement, NYC DOHMH. 2013.

Oral Presentation, Solitary confinement in the ICE detention system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Self-harm and solitary confinement in the NYC jail system. American Public Health Association Annual Meeting, Boston MA, 2013.

Oral Presentation, Implementing a human rights practice of medicine inside New York City jails. American Public Health Association Annual Meeting, Boston MA, 2013.

Poster Presentation, Human Rights on Rikers: integrating a human rights-based framework for healthcare into NYC's jail system. *American Public Health Association Annual Meeting*, Boston MA, 2013.

Poster Presentation, Improving correctional health care: health information exchange and the affordable care act. *American Public Health Association Annual Meeting*, Boston MA, 2013.

Oral Presentation, Management of Infectious Disease Outbreaks in a Large Jail System. American Public Health Association Annual Meeting, Washington DC, 2011.

Oral Presentation, Diversion of Patients from Court Ordered Mental Health Treatment to Immigration Detention. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Initiation of Antiretroviral Therapy for Newly Diagnosed HIV Patients in the NYC Jail System. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Medical Case Management in Jail Mental Health Units. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Injury Surveillance in New York City Jails. *American Public Health Association* Annual Meeting, Washington DC, 2011.

Oral Presentation, Ensuring Adequate Medical Care for Detained Immigrants. Venters H, Keller A, American Public Health Association Annual Meeting, Denver, CO, 2010.

Oral Presentation, HIV Testing in NYC Correctional Facilities. Venters H and Jaffer M, *American Public Health Association*, Annual Meeting, Denver, CO, 2010.

Oral Presentation, Medical Concerns for Detained Immigrants. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Growth of Immigration Detention Around the Globe. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Role of Hospital Ethics Boards in the Care of Immigration Detainees. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Oral Presentation, Health Law and Immigration Detainees. Venters H, Keller A, *American Public Health Association* Annual Meeting, Philadelphia, PA, November 2009.

Bro Bono Advocacy Award, Advocacy on behalf of detained immigrants. Legal Aid Society of New York, October 2009.

Oral Presentation, Deaths of immigrants detained by Immigration and Customs Enforcement. Venters H, Rasmussen A, Keller A, *American Public Health Association* Annual Meeting, San Diego CA, October 2008.

Poster Presentation, Death of a detained immigrant with AIDS after withholding of prophylactic Dapsone. Venters H, Rasmussen A, Keller A, *Society of General Internal Medicine* Annual Meeting, Pittsburgh PA, April 2008.

Poster Presentation, Tuberculosis screening among immigrants in New York City reveals higher rates of positive tuberculosis tests and less health insurance among African immigrants. *Society of General Internal Medicine* Annual Meeting, Pittsburgh PA, April 2008.

Daniel Leicht Award for Achievement in Social Medicine, Montefiore Medical Center, Department of Family and Social Medicine, 2007.

Poster Presentation, Case Findings of Recent Arrestees. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine* Annual Meeting, Toronto Canada, April 2007.

Poster Presentation, Bringing Primary Care to Legal Aid in the Bronx. Venters H, Deluca J, Drucker E. *Society of General Internal Medicine* Annual Meeting, Los Angeles CA, April 2006.

Poster Presentation, A Missed Opportunity, Diagnosing Multiple Myeloma in the Elderly Hospital Patient. Venters H, Green E., *Society of General Internal Medicine* Annual Meeting, New Orleans LA, April 2005.

Grants: Program

San Diego County: Review of jail best practices (COCHS), 1/2020, \$90,000.

Ryan White Part A - Prison Release Services (PRS). From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/17 (Renewed since 2007). Annual budget \$ 2.7 million.

Ryan White Part A - Early Intervention Services- Priority Population Testing. From HHS/HRSA to Correctional Health Services (NYC DOHMH), 3/1/16-2/28/18 (Renewed since 2013). Annual budget \$250,000.

Comprehensive HIV Prevention. From HHS to Correctional Health Services (NYC DOHMH), 1/1/16-12/31/16. Annual budget \$500,000.

HIV/AIDS Initiative for Minority Men. From HHS Office of Minority Health to Correctional Health Services (NYC DOHMH), 9/30/14-8/31/17. Annual budget \$375,000.

SPNS Workforce Initiative, From HRSA SPNS to Correctional Health Services (NYC DOHMH), 8/1/14-7/31/18. Annual budget \$280,000.

SPNS Culturally Appropriate Interventions. From HRSA SPNS to Correctional Health Services (NYC DOHMH), 9/1/13-8/31/18. Annual budget \$290,000.

Residential substance abuse treatment. From New York State Division of Criminal Justice Services to Correctional Health Services (NYC DOHMH), 1/1/11-12/31/17. Annual budget \$175,000.

Community Action for Pre-Natal Care (CAPC). From NY State Department of Health AIDS Institute to Correctional Health Services (NYC DOHMH), 1/1/05-12/31/10. Annual budget \$290,000.

Point of Service Testing. From MAC/AIDS, Elton John and Robin Hood Foundations to Correctional Health Services (NYC DOHMH), 11/1/09-10/31/12. Annual budget \$100,000.

Mental Health Collaboration Grant. From USDOJ to Correctional Health Services (NYC DOHMH), 1/1/11-9/30/13. Annual budget \$250,000.

Teaching

Instructor, Health in Prisons Course, Bloomberg School of Public Health, Johns Hopkins University, June 2015, June 2014, April 2019.

Instructor, Albert Einstein College of Medicine/Montefiore Social Medicine Program Yearly lectures on Data-driven human rights, 2007-present.

Other Health & Human Rights Activities

DIGNITY Danish Institute Against Torture, Symposium with Egyptian correctional health staff regarding dual loyalty and data-driven human rights. Cairo Egypt, September 20-23, 2014.

Doctors of the World, Physician evaluating survivors of torture, writing affidavits for asylum hearings, with testimony as needed, 7/05-11/18.

United States Peace Corps, Guinea Worm Educator, Togo West Africa, June 1990- December 1991.

- Primary Project*; Draconculiasis Eradication. Activities included assessing levels of infection in 8 rural villages and giving prevention presentations to mothers in Ewe and French
- Secondary Project*; Malaria Prevention.

Books

Venters H. *Life and Death in Rikers Island*. Johns Hopkins University Press. 2/19.

Chapters in Books

Venters H. Mythbusting Solitary Confinement in Jail. In Solitary Confinement Effects, Practices, and Pathways toward Reform. Oxford University Press, 2020.

MacDonald R. and **Venters H.** Correctional Health and Decarceration. In Decarceration. Ernest Drucker, New Press, 2017.

Membership in Professional Organizations

American Public Health Association

Foreign Language Proficiency

French Proficient
Ewe Conversant

Prior Testimony and Deposition

Benjamin v. Horn, No. 1:75-cv-03073 (S.D.N.Y.), as expert for defendants, 2015

Rodgers v. Texas, No. 2:16-cv-00216 (N.D. Tx.), as expert for plaintiffs, 10/19/17

Fikes v. Abernathy, No. 17:16-cv-00843 (N.D. Ala.), as expert for plaintiffs, 10/30/17.

Fernandez v. City of New York, No. 1:17-cv-02431 (S.D.N.Y.), as defendant in role as city employee, 4/10/18.

Charleston v. Corizon Health, Inc., No. 2:17-cv-03039 (E.D. Pa.), as expert for plaintiffs, 4/20/18.

Atencio v. Bd. of Cty. Comm'rs. of Santa Fe Cty., No. 1:17-cv-00617 (D.N.M.), as expert for plaintiffs, 7/23/18.

Hammonds v. Dekalb County, Ala., No. 4:16-cv-01558 (N.D. Ala.), as expert for plaintiffs, 11/30/2018.

Mathiason v. Rio Arriba County NM, No. D-117-CV-2007-00054, as expert for plaintiff, 2/7/19.

Hutchinson v. Bates, No. 2:17-cv-00185 (M.D. Ala.), as expert for plaintiff, 3/27/19.

Lewis v. Gautreaux, No. 3:16-cv-00352 (M.D. La.), as expert for plaintiff, 6/24/19.

Belcher v. Lopinto, No. 2:18-cv-07368 (E.D. La.), as expert for plaintiffs, 12/5/2019.

Imperati v. Semple, No. 3:18-cv-01847 (D. Conn.), as expert for plaintiffs, 3/11/20.

USA v. Pratt, No. 2:19-cr-00213 (W.D. Pa.) (Video Hearing 4/28/20).

USA v. Nelson, No. 1:19-cr-00021 (W.D. Pa.) (Video Hearing 5/4/20).

Chunn v. Edge, No. 1:20-cv-01590 (E.D.N.Y.) (Video Hearing 5/12/20, Video Deposition 4/30/20).

Fee Schedule

Case review, reports, testimony \$500/hour.

Site visits and other travel, \$2,500 per day (not including travel costs).

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF CESAR FERNANDEZ-RODRIGUEZ

CESAR FERNANDEZ-RODRIGUEZ declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is CESAR FERNANDEZ-RODRIGUEZ. I am a pre-trial detainee in the Metropolitan Correctional Center (“MCC”). My trial is currently set for July 8, 2020. My registration number is 90994-054. I have been housed on the 7th floor since arriving here.
2. I am 37 years old. I have severe chronic asthma, which was first diagnosed in 2009. Shortly before I was arrested I was hospitalized in January for 48 hours at Montefiore Hospital in the Bronx with a severe asthma attack, and went to St. Joseph’s Medical Center in Yonkers in December for a similar reason. I have been prescribed prednisone, albuterol, ibuprofen, and benzonatate for my asthma, which I took regularly before being detained, but MCC staff have only provided me with an inhaler. I last had an asthma attack on March 12th after the guards used pepper spray on my floor. I was not given any medical care.

3. I share my small cell with another inmate. My cellmate and I share a toilet and a sink.
4. For the last week or so, I have had symptoms of Covid-19. I have had a fever and a cough, and my cellmate has shown similar symptoms. I have told the guards about my condition, but so far, the only care I have received is having my temperature taken by the guards.
5. I have not been told what the MCC's testing procedures are, other than I was told I should tell the guards if I start to feel worse. The only testing I know of is taking a person's temperature. At least four people who were on 7 and got sick were removed to another floor.
6. All inmates on 7 are currently confined to their cells 23 hours a day, including mealtimes. We are only allowed to shower once every three days. Other than being told we are remaining in our cells to limit our exposure to Covid-19, we have not been given any other information about what the guards or prison staff are doing to fight the disease.
7. We have not been given any extra soap or supplies, and MCC is charging inmates for these items.
8. I am afraid because I have no access to medicine, and I don't know if I have the virus or not. I'm very nervous that my symptoms will get worse and trigger my asthma, and I don't know what kind of care I'll be able to get since I don't have my medication.

Executed on: April 27, 2020
New York, New York

As reported by Cesar Fernandez-
Rodriguez to Ryan A. Partelow of
Covington & Burling LLP



EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ROBER GALVEZ-CHIMBO

ROBER ALBERTO GALVEZ-CHIMBO declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is ROBER ALBERTO GALVEZ-CHIMBO and I have been an inmate at the Metropolitan Correctional Center (“MCC”) since July 12, 2019. I am currently awaiting sentencing, and my sentencing date is scheduled for June 5, 2020. My Registration Number is 76320-054.
2. I am 45 years old.
3. When I arrived at the MCC I was placed in 7S. In early March of 2020, I was moved to 7N.
4. On March 25, 2020, I began to feel sick. My symptoms included an extreme bloody nose, fevers, loss of sense of smell and taste, severe coughing, loss of appetite, physical body aches, and nighttime chills. I felt extremely unwell.

5. Through my cellmate (as I do not speak English and require a translator), I repeatedly requested medical attention. My cellmate was also experiencing similar symptoms. No one responded at first. I eventually saw a doctor on April 7, 2020. The doctor listened to my lungs and took my temperature. He gave me a prescription for the antibiotic Levofloxacin, 500mg, and told me to take Tylenol.
6. Despite my symptoms, no one has tested me for COVID-19.
7. I have lost 18 pounds since first becoming sick in prison.
8. I was put in isolation on April 8, 2020, and moved to the third floor. I was moved out of isolation on April 24, 2020, and put back on 7N. I was placed in isolation with my cellmate, and as of April 27, 2020, have been placed back with him on 7N.
9. This Declaration was prepared by Katri Stanley, a law clerk at Covington & Burling, the law firm that is representing me in this case, based on my statements to her. Ms. Stanley read a translated version to me in Spanish, and I agreed it was correct.

Executed on: April 27, 2020
New York, New York

As reported by Rober Alberto
Galvez-Chimbo to Katri
Stanley of Covington &
Burling LLP



EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

**DECLARATION OF SHARON
HATCHER**

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

1. My name is SHARON HATCHER and I have been an inmate at the Metropolitan Correctional Center (“MCC”) since July 25, 2018. My Registration Number is 85973-054. I have been housed in the Women’s Housing Unit since arriving here.
2. I was sentenced on March 4, 2020. I was told that I will be sent to another prison to serve my sentence but I do not know which one it will be.
3. I am 53 years old and I am in not in good health. I am HIV positive, and I suffer from Chronic Obstructive Pulmonary Disease (“COPD”). I am also clinically obese and have high blood pressure and high cholesterol. I am currently prescribed eight different medications for my health issues.

4. Because of my COPD I get a lot of upper respiratory infections. In the past, I have been hospitalized because I was having problems breathing.
5. I share my small cell with another inmate. My cellmate and I share a toilet and a sink.
6. For almost a month, my housing unit has been under quarantine. We are locked in our cells for as many as 23 hours a day, including at mealtimes, but we still share common spaces like the shower. They do not disinfect the showers between use.
7. We also all use the same phones and computers. The phones and computers are not sanitized in between uses.
8. We are given one thin surgical mask a week to wear.
9. We get one or two very small bars of soap when they have it, but that is not every week. If we want extra soap we have to pay for it and there are limits on how much soap we can buy.
10. We have not been given hand sanitizer or tissues, even recently.
11. I don't know of anyone in my unit having been tested for COVID-19, even people who seem sick.
12. This declaration was prepared by attorney Timothy Sprague based on my statements to him. Mr. Sprague read it to me and I agreed it was correct.

Executed on: April 24, 2020
New York, NY

As reported by Sharon Hatcher to
Timothy C. Sprague of Covington &
Burling LLP



EXHIBIT 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

**DECLARATION OF JAMES
WOODSON**

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

1. My name is JAMES WOODSON and I have been an inmate at the Metropolitan Correctional Center (“MCC”) since February 5th, 2020. My Registration Number is 85862-054.
2. I am 56 years old and I have asthma, chronic lung disease, hypertension, hepatitis-B, hyperthyroidism, and HIV. I also struggle with depression and anxiety.
3. I have not received a nebulizer to help with my asthma since coming to the MCC. The rescue inhalers that I have been given have not been enough on their own. As a result, I have had a serious asthma attack, and often have difficulty breathing. When I report my breathing difficulties, the staff tell me that I need to place a sick call. I have done so multiple times, but I have still not seen a doctor. The staff just give me more inhalers.

4. In early March, I was sent to a facility in Otisville while the staff searched for a loaded gun in the MCC.
5. I returned from Otisville on March 12, 2020, and was immediately placed in a unit on 11 South. This is a dorm unit that holds 26 beds. The unit is cramped and overcrowded.
6. My unit shares two sinks, one urinal, one toilet, and one shower. When we arrived, one sink did not work, and the shower and toilet had leaks. Because of prior flooding, the unit was putrid. Because the toilet continues to leak, the floor is constantly wet and the bathroom smells like urine.
7. The staff have not given me any clothing other than the outfit I was wearing the day we returned from Otisville. I have now worn the same clothes for over 40 days.
8. After we returned from Otisville, the MCC staff did not return many of our personal items, including hygiene products. These items are not always available at the commissary.
9. I have been provided a small hygiene kit, but I have not been given extra soap or cleaning supplies.
10. Disinfectant has not been made available to everyone in the unit.
11. I have not received any gloves or hand sanitizer.
12. About a week ago, I was given one mask.
13. On March 21, 2020, a member of my dorm who slept two beds away from me got sick. He had a high fever, was vomiting, and was sweating intensely. We had to bang on the walls and doors in order to attract the attention of the CO, but the staff did not remove him from our unit until the next morning. I understand that he tested positive for COVID-19.
14. Since then, the MCC staff has removed two other members of my dorm and placed the rest of us on quarantine. We have not been separated from each other.

15. Some other members of my unit that feel sick do not report anything to the staff because they do not want to be put in the SHU.
16. Our access to the staff has been greatly reduced. This includes very limited access to medical staff. We are told the medical staff are not available during evenings and nights. When members of my unit have needed to see medical staff, they were not seen until the morning.
17. The staff do check our temperatures, but are doing so less often now, approximately once a week.
18. My unit has not been cleaned, sanitized, or disinfected since members became sick.
19. This Declaration was prepared by attorney Gavin Bosch based on my statements to him.
Mr. Bosch read it to me and I agreed it was correct.

Executed on: April 24, 2020
New York, New York

As reported by James Woodson
to Gavin Bosch of Covington
& Burling LLP



EXHIBIT 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF VINICIUS
ANDRADE

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

1. My name is Vinicius Andrade and I have been housed at the Metropolitan Correctional Center (“MCC”) since January 7, 2020. My Registration Number is 21458-052.
2. I was housed on unit 5S from January 7, 2020 to March 3, 2020. Late at night on March 3, 2020, I and many other inmates from MCC were sent to FCI Otisville. We were brought back to MCC on March 12, 2020. When we came back from Otisville, we were placed on unit 11S.
3. I am 39 years old. I have asthma, for which I use an inhaler. I also have been having pain in my gallbladder.
4. I started to feel sick on March 24th with shaking, chills, fever. When staff came and checked my temperature, they said “you are okay, you have no fever, go back to your tier.” On the night of March 25, 2020, I took Tylenol before bed. When I woke up on March 26, 2020, I was shaking with chills. I told the pill line person that I did not feel

right. They took me temperature. It was 102.8. This was at about 7:30 AM. I told the medical person that I also had been coughing and was very tired.

5. They took me downstairs and I waited for two hours before they took me to a hospital that was close to the MCC. When they checked my temperature at the hospital, it was 104.3 degrees. The nurse thought something must be incorrect, so she rechecked my temperature, and it was 104.8 degrees. Around 10 AM, I was put in a hospital room. I had very bad chills, so I asked for a blanket. About half an hour later, they put an IV in me and also did the nasal swab test. They told me I would get the results in about 10-12 hours.
6. In the morning, they told me I was positive, and then discharged me around 9 AM. I went back to the MCC, where they put me in the G Tier of SHU. I had never been there before, but I had heard about it, because it is where they put the inmates who are in really big trouble. The bed in the room was concrete. They put me on it with no sheets or blanket or pillow. I lay on the concrete shaking. They had given me a big SHU jumpsuit to wear, so I took that off and used it as a pillow, but then I was just in my t-shirt and underwear so I was cold. I was not given any food until the next morning.
7. The next day, I saw another sick inmate brought into G Tier. I think his name is Mark. When they brought the sick inmate into the tier, they brought me a mattress and blankets.
8. I stayed in that room for 15 days. They gave me Tylenol three times a day. When they checked my temperature there was no fever, so they said I was fine. I continued coughing for about 5 days. No one ever checked my chest or lungs. I could not smell anything. My muscles hurt. I got very depressed. The only water I had to drink was from the sink.

9. When I was brought to the SHU, I saw another inmate from my unit was already there.
His name is Brandon Parisi. He was very sick.
10. Before I left the SHU, my gallbladder began to hurt.
11. When I went back to 11S, no one had cleaned my bunk area. The inmates in my tier gave me a plastic bag that they had put my blanket and sheet in so they did not spread the infection. But everything else was just the same, and the guys in my tier said no one had come to clean or given them any extra cleaning supplies.
12. When I got back, a lot of guys were sick. No one wanted to report anything to medical because they did not want to go to the box and go through what I did. They said they would rather die in their beds because at least other people would be around them. If they felt hot, they would throw cold water over their faces before the temperature takers came.
13. Officers all have masks, but they often leave them around their neck, even when we are out in the unit. The Warden hardly ever comes to our unit. An orderly cleans on the unit every day, but not between each use of the phone or computer.
14. We have not gotten social mail in a while. I get legal mail, but it is opened before it comes to me. The envelope is marked legal mail but they still open it, even though I know they shouldn't do that.
15. My gallbladder has continued to bother me. I put in computer sick calls but it takes a long time to be seen by medical. They gave me one shot to calm the gallbladder pain. Plus I have been taking Tylenol or Ibuprofen. There is a doctor who is an inmate on our unit. He said I need to get an ultra sound of my gallbladder. But the medical staff here says they can't send me out for an ultrasound.

16. I have also continued to be depressed. I finally got to see the psychologist two weeks ago.
17. Before the doctor came on the inspection, they sprayed with the backpack sanitizer. They don't usually do that on our unit. I saw they came back again with the backpack sanitizer when the doctor was there for the inspection. They also took some bulletins about people who got sick with COVID down from the computer. We wanted to keep them to show the doctor.
18. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 15, 2020
Brooklyn, New York

As reported by Vinicius Andrade to
Deirdre D. von Dornum

/s/ Deirdre von Dornum

Deirdre von Dornum
Federal Defenders of New York

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF
ROBERT BARNES

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

1. My name is Robert Barnes. I have been housed at the Metropolitan Correctional Center (“MCC”) since February 5, 2020. My Registration Number is 87759-054. I have been housed on 11 South.
2. I am 73-years old, turning 74 in August.
3. I suffer from numerous medical conditions: I have coronary heart disease, high blood pressure, high cholesterol, and plaque in my aorta. I have suffered from two heart attacks in the last three years, most recently in January 2018. I have vascular issues including microvascular disease in my head and am currently experiencing swelling in my feet and legs. My kidney function is deteriorating, and I have been warned to avoid over-the-counter medications and to expect to start dialysis within a matter of time. On the date of my arrest, the arresting officers took me to the hospital before bringing me to the Southern District courthouse. The physician who examined me ordered a chest x-ray

because of my persistent coughing and informed me that he saw the beginning phases of emphysema and chronic obstructive pulmonary disease (COPD). Additionally, I have survived prostate cancer and had both of my hips replaced.

4. I am housed in 11 South. There are currently 19 people in my unit, sharing an open dorm filled with bunk beds. Although the bunk above me is currently empty, there are men in the beds on both sides of me, so close that I can almost touch their beds from my own. In our unit, we share one urinal, one toilet, one sink, and one shower. There are two tables in our living quarters, each with four seats connected to the table such that they cannot be pushed away to create distance during meals or social time. We eat our meals at these tables, in our beds, or in freestanding chairs. It is not possible to distance from other prisoners while eating.
5. We do not have enough soap or cleaning products. We receive a hygiene kit once a month. It contains a small portion of soap that we each must use for our hands and bodies. I personally have little or no money coming in for commissary, and I have been forced to borrow a bar of soap when my kit has run out and I have no money. I have asked for more soap several times but have been told that it is unavailable because it is locked upstairs in the unit counselor's office. I received the same response when I requested additional toilet paper. Fortunately, I have been able to shower every day. We have never had access to hand sanitizer in my unit. We have asked and have been told it is not available. Every other day or so, we receive additional cleaning fluid in the one or two bottles available in my unit. We do not have enough, and these cleaning supplies go very quickly. We all share the same few rags to do our cleaning. We have requested more cleaning supplies but have been told that they are unavailable. However, before the

recent court-ordered tour of the MCC, I saw people mopping, sweeping, and cleaning the walls. Detergents and cleaning supplies were handed out to prisoners.

6. We have access to four phone and three computers. At first, the orderlies were vigilant about disinfecting phones between use. Lately, though, guys have been falling off and not cleaning as much as is necessary. I do not know when or how the computers are cleaned.
7. Since the start of the COVID-19 pandemic, there has been a slight increase in cleaning, but not enough. There is black mold in our unit that has built up over the years. I recently showed it to an employee, but no action has been taken to address it. There are rodents—both rats and mice—and cockroaches in our unit. I see them every day.
8. About two weeks ago, we began to receive masks. Some are washable cloth masks and others are thin, disposable surgical masks. Masks are mandatory outside of our unit but optional on the unit. I wear mine whenever I can, but most people do not on the unit. We have never received gloves. The guards have been wearing masks and gloves but are not keeping their distance from us. It is my understanding that they switch among different units and therefore are in contact with other people in other parts of the facility.
9. We have been locked down since March 13, 2020. We have been informed that this is a “modified lockdown.” Currently, each unit is allowed out for about 90 minutes each day. Other than that time, I am on my unit with 18 other prisoners.
10. People in my unit have been removed due to COVID-19. Some left and never came back. Others were taken to the SHU and then returned after a period of time. I have never had symptoms, other than coughing, and I have never been tested for the disease.

EXHIBIT 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ARMANDO
BENIQUEZ

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

1. My name is Armando Beniquez and I have been housed at the Metropolitan Correctional Center (“MCC”) since February 21, 2020. My Registration Number is 86072-054.

When I first arrived at the MCC, I was put in 11S and then after the incident where a gun was found, around February 26th or 27th, I was put in 11N.
2. I am 27 years old.
3. My pre-existing medical conditions prior to arriving at the MCC are very bad asthma, and anxiety, which I take medication for.
4. In 11N there are approximately 120-130 people. There are six tiers, with everyone bunking by two, and eight rooms in each tier, so 16 of us in each tier. I am in Tier 4. I share my cell with Dwayne Conley. We sleep in a bunk bed and I have the top bunk.

5. Dwayne was the first person to catch coronavirus. They put up a memo about it, which said that someone in our unit that was removed was confirmed to have coronavirus. Dwayne was the only one at the time that had been removed, so we put two and two together and knew it was him. Dwayne started to feel sick on March 23rd. I felt really sick too. On the 23rd, they took Dwayne out and brought him back in twenty minutes and gave him some medication and told him he had a stomach virus. But he didn't get better. For three days, we tried to get medical attention again, but they did not take him out until the 25th. We had to bang on the door to get attention. C.O. W. McClams was the C.O. making the rounds in our unit and he ignored us. By the time Dwayne was removed he was so bad he almost died. That day, I think his temperature was 102.9 degrees. The day that the doctor came to remove him, the doctor told me, "if your bunkie is sick, we will send you to the box tomorrow, and then take you to the hospital." By the box they mean the Special Housing Unit, the SHU. But they never came back for me. I had to get better on my own.
6. My whole tier caught the virus. I was really scared, in a really bad way, and was experiencing a lot of anxiety. We have been on lockdown in our cells and are only let out for 45 minutes a day. They are not selling radios anymore and they are not letting us watch the news so everyone's state of mind is to get in contact with our families to find out what is going on. I have a daughter, and my parents are over 50 years old. I am really worried.
7. After they took Dwayne, they put up memos that said, "Report your symptoms." But I did report my symptoms and they didn't do anything, only temperature checks. My symptoms were that I had a really bad fever, bad chest pains, coughing, I could not taste

my food, my ears were clogged, I felt weak, and I did not want to get out of bed. It took me two to three weeks to recover from most of my symptoms but to this day I continue to feel intense chest pain when I lie down.

8. I tried repeatedly to get medical attention but I wasn't able to. When they came by for the temperature checks I told them that I had chest pains, but they said it was nothing and probably from the food. I tried to tell the C.O.s as well but I didn't get to see a doctor. I probably spoke up between 23 and 30 times about needing to see a doctor but I didn't get to see one. I contacted the warden once via a cop out, and told her I felt really bad and was really sick and asked if they could release me on compassionate release. I told her of all of the dates and times that I was feeling really bad. The warden wrote back and said, "I've seen your temperature and it's fine."
9. While Dwayne was gone they didn't give me a new cellmate and left his things exactly as they were -- his shirts, same sheets, everything. They didn't give me any cleaning supplies at all to clean it even though his sweat was on everything. I requested cleaning supplies but the orderlies were the ones getting the supplies and they would keep stuff to themselves.
10. After they took Dwayne to the hospital they brought him back to the MCC and put him in the box. He was brought back to our cell about one month afterwards. He confirmed to me he tested positive for COVID. But he wasn't better when they brought him back. He still had a bad cough for about two weeks. I told Dwayne I didn't mean any disrespect, but I was worried about getting sick again so I asked the unit manager if they could move me. But they said they couldn't.

11. I can tell you some of the names of others that had coronavirus. First on March 31st they took out Alex Matias when he had a fever of 103. He was the only other person besides Dwayne that they removed. They sent him straight to the box but they never took him to the hospital. He never came back to our unit, I think he was moved somewhere else. Also, Walkiel Arias and Joel Pena both caught the virus but didn't want to say anything about it. The word around was, if you get sick or complain you're going to the box, so a lot of people didn't want it to get out that they were sick. I was worried about this too, but I felt so sick there came a point where I didn't care. Colon Acevedos, Miguel de la Cruz, and Marcus Limon are also names of people who got sick. C.O. W. McClams, the one who ignored us at the beginning, he got very sick as well. C.O.s Assiidadaa, Roberts, He, Lodge, and Hanna all got sick too. 28 staff members got sick, but they didn't post this because it would have caused chaos.
12. We heard that someone was supposed to visit the jail recently, and a few days before they had a guy come in with liquids to clean, and they put mouse traps. They tried to fix things up but they still didn't clean my cell, and some of the things even if they try to clean it up quickly they can't make it go away. For example there are still a lot of roaches, every day two or three come out of the wall in my cell.
13. After Dwayne was removed I wasn't able to wash my clothes for 22 or 23 days. People were complaining about not being able to wash their clothes, so they put in a washing machine, but at first only the orderlies were allowed to use it.
14. They still didn't give us anything to clean with. When we are let out for recreation we try to take the mop to clean some but we don't have anything to clean with, just regular water. The mop is dirty and it's very nasty.

15. I haven't heard anything about testing. I don't think they are testing people. I requested testing because someone informed me that I could still have the virus even without having all of the symptoms. Now they are doing temperature checks once a week on Wednesdays. They used to do it more often but now they've slowed down. I have told them I still have chest pains. My cell is super small, and my knee is hurting. But they haven't given me proper medical care. I am supposed to have an asthma pump and I had to request it multiple times. Finally I got into an argument with the CO about not having it and started crying, and then managed to get it the next day.
16. On May 10th, I experienced intense headaches and vomiting. My bunkie tried to get medical attention for me, but was told there no doctors in the building at that time. On May 11th, the P.A. came and took my temperature, and told me it was 97.1, but I told him I still felt sick and needed to see medical. He said he was just a P.A. and would pass on my request, but medical never came. On May 13th, I was still experiencing chest pains and body aches. On May 18th, I had tightness in my chest, but the computers in my unit weren't working, and hadn't been working for a few days, so I couldn't put in a request for medical attention. This past Saturday they fixed them. On May 23rd, they came to check my blood pressure and said it was really high, but they didn't do anything. I still get sharp pains in my chest, especially when I lie down. It's a pain I've never felt before; it comes and then leaves, it's weird. When I feel it, I have to stand up and pace around the room.
17. From April 11th to April 15th we were getting expired food for four days in a row. It had the date on it of October 16, 2019. I wasn't even at the MCC then.

18. I get soap about once every two weeks. I tried to request more but was told that I had to wait.

19. It's hard because they are changing the C.O.s almost every day. There is a memo posted that says we are supposed to get a mask every week but I haven't gotten one in about three weeks. The memos are like false advertisements! I first got a mask around April 15th, and I think the guards started wearing masks around then too. I am also out of toilet paper. I've been requesting it for two days, but haven't gotten any so I've been cutting my towel cloth to use that. I've requested more from the unit manager and also asked the other inmates, but they said that toilet paper is like gold. I get one roll per week.

20. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 26, 2020
New York, New York

As reported by Armando Beniquez to Katri Stanley



EXHIBIT 9

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF RANDOLPH
BOURGOIN

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

1. My name is Randolph Bourgoin and I have been housed at the Metropolitan Correctional Center (“MCC”) since October 28, 2019. My Registration Number is 13606-036. I have been housed on 11 South.
2. I am 33 years old.
3. We are housed in an open dorm and there are 22 people in my dorm. I can reach out from my bed and touch the bed next to me. We share one toilet and one urinal. The toilet leaks non-stop. The floor is constantly wet no matter how much we mop. Now it is getting unbearably hot because our fan does not work.
4. COVID-19 started in my tier, Tier 12, in 11 South. Brandon Parisi, who was the first one to get sick, was two beds away from me. I had multiple symptoms right after Brandon got sick. I lost all sense of smell, had massive headaches, shortness of breath, diarrhea,

and a dry cough. I did not have a temperature. The night that the Brandon was taken to the hospital, the new captain came through. I coughed and he asked me how long have you had that, I was worried he would put me in the Special Housing Unit (“SHU”).

5. In addition to Brandon, Maurice Murphy was taken to the SHU for COVID-19. I believe Maurice Murphy was moved to the SHU without a fever, but he had to throw a stink—he kept telling them I’m sick, until finally they took him. Both of them were brought back in with us. They also brought in a couple of people from other units into our tier. I believe they were from 9 North and 5 South.
6. There was an older guy on my unit, Brad Smith. He had shakes and we had a hard time waking him up. We told the doctors. They took his temperature, it was around 99.7. They said he’s fine and left him with us. They didn’t give him any medicine.
7. Multiple guys reported symptoms when they were coming around to take our temperatures every day. But they would just say temperature in response.
8. I asked for a COVID test shortly after Brandon went to the hospital, but was told no. I was told that the BOP is not testing inmates unless they go to a hospital.
9. They did not start giving us soap until the first part of last week. That is when they started cleaning and the notes on the walls were posted. That was all done right before you got here. They even had orderlies polishing the floor. And they were on us to wear masks.
10. There is nothing being done regularly to clean spaces. They give us supplies and say clean yourself. They are supposed to wipe down the computers but do not. Orderlies were cleaning a lot when this first started but now they do not care. The most I’ve seen it cleaned was before you came. Now it is not being cleaned.

11. For the longest time we were washing our clothes in the shower with a bar of soap. I ran out of soap a couple of times and got more from friends. Now we have a washer and dryer that we can use once a week, each tier has a day. Our laundry goes in one at a time. I did go one and a half months with one pair of boxers, one t-shirt, and one pair of pants.
12. Staff started wearing masks a week or two after Brandon got sick. But they were picking and choosing. There was one officer who said that he goes by the grace of God, so he did not feel he needed to wear a mask. All staff started wearing masks about two weeks ago.
13. Masks were given to inmates around the second week in April.
14. I run the warehouse in the kitchen. They are doing a lot for cross-contamination there. They hired 11 North to do the evening shift and make sure we are back in 11 South before they come down.
15. In the kitchen they have been upping the extermination. The exterminator used to come every two weeks. It was horrible, there was mice feces all over the food. Now the exterminator comes every week.
16. When I first resumed working in the kitchen about six to seven weeks ago, we had gloves but no masks. We got masks a few days after that.
17. I have had an abscess in my tooth since I got to the MCC but they keep pushing me out. I was supposed to get a root canal after the holidays. My face is swollen like a golf ball. I have put in multiple request forms.
18. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the

MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
New York, New York

As reported by Randolph Bourgoin
to Ishita Kala



EXHIBIT 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF WILLIAM
BRADLEY

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

1. My name is William Bradley and I have been housed at the Metropolitan Correctional Center (“MCC”) since July 26, 2019. My Registration Number is 87078-054. I have been housed on 11 South since just before the virus lockdown.
2. I am 58 years old.
3. I have the following medical conditions: Hypertension, breathing problems, sleep apnea, numbness in my hands and feet and severe obesity.
4. There are 26 people on my tier which is 7 tier. We are housed in an open dorm. We share tables to eat at, one shower, one toilet and one urinal. We share phones and a computer terminal with six other similarly sized units on 11 South.
5. A new person joined my unit last week. He was moved from another unit, but had recently been arrested.

6. Every four or five days, I am given two travel-size bars of soap. I am given a roll of toilet paper every several days. I usually run out and have to borrow from another inmate. There is no hand sanitizer.
7. There is a spray bottle of unidentified cleaning liquid to use when I need to use the bathroom.
8. There is no more frequent cleaning of the unit. The floor is washed in the evening. The use of the phones and computers alternates among the tiers and the equipment is cleaned between tiers but not between inmates on each tier.
9. We were given two paper masks about three weeks ago which I still use. Last week, two cloth masks were distributed to each inmate, which the inmates must wash themselves between uses. We have not been given gloves.
10. We have been locked down since March 13, 2020. This means I am in a crowded dormitory with bunk beds separated by about three feet for 23 hours a day with 25 other inmates. We are let out to use the computers and phones for one hour a day.
11. Meals and medication are distributed at the gate of the tier. Everybody on the tier gathers around the gate to collect their medication or food. There is no social distancing. The guards remain in a bubble downstairs.
12. I have experienced chest pains and sore bones. I signed up for sick call a month ago and received email confirmation, but I was never called to the medical unit.
13. Between three and five inmates have been taken off the tier because of sickness. I have seen people pass out. Some but not all of the people who leave are returned to the unit after about two weeks.

14. Staff wear masks and gloves. I have seen some staff members showing symptoms and to my knowledge, staff members work more than one unit.
15. Just before the people visited the unit last week, new signs appeared on the walls.
16. I am very afraid that I will get sick and die in this facility.

Executed on: May 20, 2020
New York, New York

As reported by William Bradley to
Jean D. Barrett, Attorney-at-Law

/s/ Jean D. Barrett
Jean D. Barrett

EXHIBIT 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF TERRELL
BROWN

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

1. My name is Terrell Brown and I was housed at the Metropolitan Correctional Center (“MCC”) from October 2019 until April 27, 2020, when I was released. My Registration Number is 15777-104. I was housed on unit 5S from October 2019 until February 29, 2020, when I was placed in the SHU (because of an investigation into a cell phone), where I stayed until my release.
2. I am 38 years old.
3. I have the following medical conditions: high blood pressure and high cholesterol. I have had both medical conditions for about two and a half years. I am on medication for both.
4. On unit 5S, there were 96 people on my unit. The units are divided into tiers. In my tier, there were 15 people. We were housed in double cells, with a bunk bed in each cell. The entire unit shared phones, email terminals, tables to eat at, and showers.

5. On 5S, there were mice, roaches and ants, throughout the unit, including in my cell. The sink in my cell was hanging off the wall. The toilet in my cell was 3 ft from my bed. There was always leakage coming from the toilet. There was poor ventilation in my cell. My cell was freezing cold.
6. I saw new people join unit 5S just before February 29th when I went to the SHU, where I was housed until my release on April 27, 2020.
7. When I was first placed in the SHU, I was not given my regular medication for high blood pressure and cholesterol. Then three or four days later I had to be rushed out of my cell and taken to medical because my heart rate and blood pressure were too high. A couple of days later, I still did not receive my medication and had to be rushed down to medical again because my blood pressure was too high again. I finally got my medication about a week and a half after being placed in the SHU.
8. Beginning around the third week of March, I saw sick inmates being placed into SHU L Tier, to be locked in isolation. The officers told us these inmates had been exposed to someone in the courthouse cellblock who had COVID. Then inmates who were showing symptoms were placed in quarantine in G Tier. I saw the inmates who had been housed in L Tier before the sick inmates came, get packed up and moved into general population or other tiers on SHU. Some inmates who were not quarantined took showers on L Tier where quarantined people who had been exposed to COVID-19 were.
9. I saw staff wearing hazmat suits when they went to G tier since early April.
10. I have not experienced any COVID-19 symptoms but my cellmate in SHU, Antonio Smith, experienced symptoms. He had a dry cough, fatigue and chest pain.

11. In SHU, we have a 21-day cell rotation. The cells are not cleaned between rotations.

When we rotated from tier J to tier H, in early April, Mr. Smith got sick. Mr. Smith was self medicating with vitamins and hot water. On around April 8th or 9th, when Dr. Joaquin was on our tier, Mr. Smith told him he was feeling sick. About 48 hours after Mr. Smith spoke to Dr. Joaquin, he was called down to medical for chest x-rays. The x-rays showed congestion in his chest. The officers returned Mr. Smith to SHU from medical and put him back into our cell.
12. Mr. Smith continued to feel sick after he came back from medical, and said it was hard to breathe.
13. On April 15, 2020, Mr. Smith and I worked as orderlies in the unit. We were orderlies for two days before being quarantined. We swept, cleaned, washed and folded clothes, and cleaned the tiers. I had a surgical mask and gloves. I was given a new mask for the days I was an orderly.
14. On April 16, 2020, we were doing the unit's laundry, in the laundry room near the entrance to SHU, when Dr. Joaquin walked by. Dr. Joaquin was surprised to see us, and said we were both supposed to be in quarantine because Mr. Smith is sick. Dr. Joaquin had ordered that we be quarantined from the day of Mr. Smith's x-ray so that Mr. Smith did not get anyone else sick, but no one had put us in quarantine.
15. The next day, on April 17, 2020, officers came to our cell and put us on another tier in SHU where they were keeping the sick inmates. We were in separate cells. We stayed there for one week, until April 24, 2020. There was another inmate on that tier with us because he had a broken jaw.

16. While I was on the sick inmate tier of SHU, my temperature was checked through the feeding slot low down on the door. I did not get any other checks.
17. I heard of others in SHU getting sick but was unable to identify who because I cannot see other inmates in SHU other than my cellmate, I could only hear complaints of others not feeling well.
18. I have not heard about anyone getting tested for COVID-19. The medical staff walks around and inmates can ask to have their temperatures taken but do not get a regular temperature check without asking for it. Neither I nor Mr. Smith ever received a COVID-19 test.
19. We received a thin surgical mask once a week, starting on April 14, 2020. We barely had any cleaning supplies to clean our cells. We got soap occasionally and did not receive toothpaste but baking soda instead.
20. We asked for soap but there are always so many officers running around that they don't remember to give it to us. We have to wait until officers give out soap. Usually soap is given out Monday, Wednesday, and Friday but this was rarely happening regularly in March and April. There was always enough toilet paper.
21. We were not given towels or cloths to clean with. We used ripped up tshirts and socks to clean. We were given a half a cup of Ajax to clean once every other week.
22. During March and April, the unit was not cleaned any more than it was normally. On days when we had showers, inmates would dump their dirty clothes in the shower and they would sit there until orderlies would pick them up.

23. There is only one phone shared between everyone in SHU, including those in quarantine. There is nothing to clean the phone with so we put a sock over it during use to protect from another person's germs.
24. We received one bulletin about COVID in March and a second bulletin about COVID in April. When we received the second bulletin we got a spray bottle with pink sanitation liquid inside. This was the only time I was provided with this sanitizer.
25. There is no laundry or linen exchange in the SHU. To get fresh linens I had to tell an officer. We were supposed to get new clothes when we got showers Monday, Wednesday, and Friday but we did not get regular showers during March and April. We would usually get one shower a week, but even this was not consistent.
26. I couldn't practice social distancing in SHU because I was locked in a small cell with Mr. Smith, and I was always handcuffed when I was taken to the showers. I heard a couple of officers say they were worried about getting sick.
27. I saw a couple correctional staff coughing at MCC. I saw two correctional officers coughing and sneezing without masks in April.
28. Staff are wearing masks for the most part but some wear them under their chins or remove them. The officers didn't have gloves on all of the time. I noticed that they would collect trash and serve food with the same gloves on. Officers also went between tiers, including to the quarantine tier, without changing gloves.
29. The Warden is supposed to visit the SHU every Tuesday for a meeting with all the inmates. I saw the Warden one time in March and then the next time I saw the Warden was April 27th, the same day I was released.

30. The main thing that bothered me was seeing my cellmate get sicker and sicker without being quarantined. I asked to speak to psychology and told her I was afraid I was going to get sick and die and I had a release date coming up. The psychologist said I'm safer in this cell than I would be at home with my family. Then the next week I was placed on quarantine along with my sick cellmate.
31. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 15, 2020
Brooklyn, New York

As reported by Terrell Brown to
Hana Yamahiro

/s Hana Yamahiro
Hana Yamahiro

EXHIBIT 12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ; ROBER
GALVEZ-CHIMBO; SHARON HATCHER;
JONATHAN MEDINA; and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF DAVID
CROSBY

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

1. My name is David Crosby and I was housed at the Metropolitan Correctional Center (“MCC”) from August 5, 2019 to May 13, 2020. My Registration Number is 62833-054. When I came to the MCC I was originally in 5S, then was moved to Otisville because of the gun incident, then went back to the MCC to 11S in middle of March 2020.
2. I am 43 years old.
3. I have the following medical conditions: I have severe asthma and have no spleen.
4. On 11S I was in Tier 10. There are 26 inmates to a tier, and six tiers, numbered 7 through 12. It is a dorm atmosphere once you get inside. There were about 130 people in 11S. We slept in bunk beds. The beds were so close that when lying down I could reach my arm out and touch the bed next to me. The beds were loose and weren’t secured properly; when you were in them they would shake. There is supposed to be a ladder to

get to the top bunk, but there aren't any ladders whatsoever at the MCC for this. It's really unsafe because you have to use a chair, sometimes stacking the chairs, to get up to the top.

5. When the virus started kicking in they put us on lockdown. They never gave us masks; they only gave masks to the staff members. It wasn't until recently that they started giving out masks. And the masks they gave were such bad quality, we had to keep rewashing them. They never gave us gloves, and they didn't have unlimited spray bottles and soap.
6. They started up putting up signs a day prior to the inspection, indicating that you could request cleaning supplies, and reminding us to wash our hands. The warden was in there early in the morning telling people what to do. They brought out wax and buffers the day before the inspection, and the counselor told me, "make sure this place is looking nice and sharp, we have visitors coming." But I didn't make an extra effort to clean anything, I wanted the people coming to see how it really is. It's like someone who stinks putting on a new outfit when they didn't take a shower, they are still dirty underneath.
7. The night before the inspection they brought someone back to our unit from the box. It was someone who had it, and had been taken out for 14 days. When he returned they had him working in the kitchen, where he could be touching everyone's food.
8. I believe that everyone in there had it. Personally, I had every symptom except for a fever – I had body chills; I was waking up in a cold sweat; I couldn't taste or smell; I had a cough, a sore throat. I had to keep drinking tea with lemon, and took Halls. They just started putting Robitussin and allergy medicine in the commissary but they didn't have it there before. I requested medical care, but they said if I didn't have a fever, they couldn't

do anything about it except give me Tylenol. And when you put in a request for a sick call on the computer it could take five days, even longer.

9. They tested three from 11S: Robert Russo, from Tier 9, Parisi, and a Brazilian guy, from Tiers 11 and 12. I used to call him Brazil. They all had it. Russo they took out in a wheelchair and he was gone for 23 days, but they brought him back to the same place. The other guys they brought back as well, and they didn't quarantine their clothes, sheets, nothing.
10. I requested a COVID-19 test but I never got one. Even the warden tested positive. Everyone asks for tests, but if you are yelling or a little bit aggressive, they put you in the SHU. We would request a test and they would tell us they would come back, but they never did. They didn't tell us anything about the protocol for getting tested. I know only about the people in our unit who got tested, and only the ones who were really in a bad way got tested. Russo tested positive, and they sent him away. But when they brought him back, they didn't retest him or take everyone out of the tier and clean. So I saw, if they aren't even retesting a guy they know had it before they put him back in with everyone, there is no chance that they are going to test me.
11. They removed one person from my tier, but they didn't test him. Everyone in my tier had symptoms. Chris Karimbux – he had a fever one day and he couldn't get out of bed; we made him get up and try to get medical attention; we didn't want to get sick from him. They took his temperature and his fever was 100-something. But they just sat him down in the front of the room and brought him back Tylenol. They didn't remove him. They said that you have to have a fever of 104 or higher for them to take you out.

12. A lot of people were trying to act like they weren't sick because once you tell them you are sick, they put you in the SHU. When you are in the SHU, you only get one call every 30 days. The living conditions are really bad there, and the mice in the SHU are even worse.
13. When they brought us back to 11S after Otisville, they mixed us in with pre-trial. I was a cadre – we wear greens, and the rest of the inmates wear jumpers. So I'm not supposed to be with people being sent back and forth to court. We heard that somebody from the MCC had gone to court with someone who tested positive. The first inmate who tested positive at the MCC was from 11S, and he was a cadre, but we don't know how he got it.
14. There are mice everywhere. They don't give people mouse traps. I have to turn my head the other way at night to not see them. They come out of the holes in the walls. I'm a grown man and I hate mice; I see one and they'll make me jump up on the bed. They are running around everywhere like they own the jail. The day before the inspection they brought in the exterminator. There was also a lot of mold everywhere.
15. They didn't give us any hot meals, only bagged up, cold food.
16. When you say you want medical attention, to get it you have to be so bad that you've fallen down and are not able to get up anymore.
17. In the inspection, they called me out to talk to the lawyers. They asked to speak to Russo too. I thought I would get to speak to them in private, but when I went up there, there was an officer, a big guy, who was present the whole time they were asking me questions.
18. When they do issue us spray bottles, they don't give us any cleaning cloths or rags to use it with. People rip their old towels up to make cloths. But then they don't clean the

cloths, so you might clean the table with a rag, and then clean the phone with a rag, so really you are just making everything dirtier. The common areas were getting cleaned by us with the rags we made, but we never had anyone else come in to properly clean.

19. When the inspection came, they started handing out bars of soap. Before the inspection, we weren't given bars of soap. So if you are unfortunate and don't have any money in your commissary account, you had to borrow soap.
20. Not all of the staff members would wear their masks. They would come to work sneezing, coughing, not wearing their gloves. But they would still show up at work.
21. I was a food orderly, and my only job was supposed to be to hand out the food. But when I was out there I would help to wipe down the phones and computers because I noticed that the people who were supposed to be doing it were not. Everyone gets out for two hours every day, and between shifts at the phones and computers where one group leaves and the next comes in, it's someone's job to spray down the phones and computers. But even for this they had to use the dirty, hand-me-down rags, and it wouldn't always get done.
22. It's been a really long time since we were first on lockdown, since February 27th when a C.O. smuggled in a gun to one of the inmates, and we were still on lockdown when I was released. They have loosened some of the rules a bit recently – you are supposed to get 300 minutes a month for calls, but now they are giving 500 minutes and they don't charge you for calls. Before, the commissary limit was 25 dollars a week, and now it's 50 dollars a week. They're doing these things because they realize how they are treating us inhumanely so they are trying to make up for it a little bit.

23. There was only one washing machine and dryer for 11S. I didn't have problems washing my laundry in the washing machine because I was an orderly. But a lot of people couldn't wash theirs. Or they wouldn't have any soap powder. Before, people used to wash their blankets and sheets in the washing machine, but two or three weeks before the inspection they said we couldn't do this anymore, and started doing linen exchange. But I didn't want to use the washing machine because sick people were washing their clothes in there and didn't want their sickness touching my stuff. So I would hand wash my clothes every day and then would hang them up. They only give you one fan per tier, and it blows out dust.
24. Overall, my experience at the MCC was very mentally draining and it took its toll on me. For the gun incident, we were on lockdown being punished for something we didn't even do; it was an officer who brought it in and he just got sent home pending further investigation while we suffered the consequences. The way they handled our property when they were looking for the gun was so disrespectful. I've been in prison for ten years, so the stuff I have is what I accumulated, like pictures of my parents, who both died when I was in jail. But they mixed up all of our stuff and we couldn't get a lot of it back because they didn't put it back with who it belonged to.
25. Inmates at the MCC feel like they don't have a voice to speak up and raise their concerns. It was really hard to be in there with so many sick people. It really messed me up mentally and made me feel like I was on high alert and defense, just to see people approach me and always wonder if they had just washed their hands or not. I still feel jumpy even though I'm on the outside.

26. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 26, 2020
New York, New York

As reported by David Crosby to Katri Stanley

A handwritten signature in blue ink that reads "Katri A. Stanley". The signature is written in a cursive style with a large initial 'K'.

EXHIBIT 13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF FRANKLYN
DANSOWAH

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

1. My name is Franklyn Dansowah. I was detained at MCC New York from December 18, 2018 to May 7, 2020. My Register Number is 77306-054. I was housed in various units, primarily on 5S (which used to be the cadre unit). I was in SHU from February 27, 2020 until the second week of March. From the second week of March until May 7, 2020, I was housed on 11S, Tier 12.
2. I worked throughout the building as the head electrician orderly. I had a gate pass so I could leave the building and work outside the facility to fix lights. I fixed lighting and computers all over the building as well. I was responsible for cleaning the Warden's office and the Captain's office. I had this position until I went to SHU and the pandemic began.

3. Right when the pandemic started, MCC converted the open dormitories on 11S into the cadre unit (moving us from 5S), and mixed us in with elderly and ill people, including a lot of pre-trial detainees.
4. When the lockdown for COVID-19 started, they said we had to be locked down too, even though we did not have cells. So they locked us in our tiers. Each tier holds 26 people. We have bunk beds without ladders that are placed close together. We share one unsanitary bathroom with one toilet, one urinal, and one shower. Our tier was filled with mice, gnats and flies. It was harder to socially distance once we were locked down because there was nowhere for the 26 of us to go to have space from each other.
5. For the first month of the lockdown, we were only given Fabuloso to clean our tiers. In mid-April, we got a red sanitizing liquid. We asked for bleach, which we knew MCC has, but they said no.
6. In the last part of March, people on my unit started getting sick. We think we got sick from staff. We know the head of the CMC had COVID-19, a few officers had it, and the Warden did too.
7. Once people on our unit got sick, the MCC stopped having inmate orderlies go to the kitchen to cook. This meant everyone in the building got cold food for all three meals, for three or four weeks. Then the MCC tried to have some of the female inmates cook for everyone, but they got sick too, and the female unit got quarantined.
8. On my tier, two guys got sick right away: Brandon Parisi and Daniel Vernon. At this point, no one was coming around taking temperatures or asking how we were feeling. The other guys on my tier noticed that Parisi and Vernon didn't look right and were staying in bed a lot. We told the officers so they could get medical attention. But instead

they just got tested and then put in the SHU. Another guy in my tier, Tim Williams, got sick after Parisi. He just stayed in the bed and never got care or got tested.

9. When the medical staff started coming around taking temperatures, they did not care if people had other symptoms – cough, chills, diarrhea. They just left them in bed unless they had a fever.
10. After Parisi and Vernon went to the SHU, several people got symptoms on the unit but didn't want to say anything to medical because they did not want to get put in the SHU too.
11. At the end of April, I had a cough but I don't know if it was COVID or not.
12. After someone in our tier got sick, and was taken to SHU, we would ask officers for disinfectant and they would just say no, we don't have any. They weren't our regular officers or unit team. Our regular officers had been replaced by officers from all over (Lewisburg, Otisville, Danbury, Ft. Dix) who did not care about us.
13. We were trying to give our home confinement and compassionate release papers to the officers but they said only our unit team could take them. The week before I was released our unit team finally came back.
14. When the Warden came around, we would ask about compassionate release and home confinement, and the Warden would tell us it was a whole process, and a lot of steps, and there was nothing she personally could do about it. People would tell her their history and she would say on the spot they did not qualify.

15. One guy on the unit (Jamal Wheeler) had four or five seizures during the lockdown. We kept telling the officers that he needed medical care, but no one came. Then, one time, the nurse was there taking temperatures, and Wheeler had a seizure in front of her. He had been on the phone with his mom and he ended up on the floor seizing with the phone cord dangling. The nurse just took his temperature, told him to drink a lot of fluids, and left. No one ever came to check on him.
16. We did not receive masks until mid-April.
17. New people continued to come to our unit throughout the lockdown. A new person came to my tier on May 1, 2020.

Executed on: May 21, 2020
Brooklyn, New York

As reported by Franklyn Dansowah
to Deirdre D. von Dornum

/s/ Deirdre von Dornum

Deirdre von Dornum
Federal Defenders of New York

EXHIBIT 14

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF
DARIUS DAVIS

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

1. My name is Darius Davis and I have been housed at the Metropolitan Correctional Center (“MCC”) since December 2019. My Registration Number is 86548-054. I have been housed on Unit 5 South since March 2020.
2. I am 27 years old.
3. I have the following medical conditions: asthma and a heart murmur.
4. There are about 60 people on my unit. We are housed in double cells. We share phones, email terminals, and showers.
5. New people last joined my unit on or about May 7, 2020. Two people came. I understand that one of them had been in the SHU. I understand that the other one came from the street; he was not quarantined until after he had mingled with my tier and at least one other tier.

6. I had symptoms of the coronavirus in April. My bunkmate complained of a fever first. Then I lost my sense of smell and taste, and I experienced fever and chills. I wrapped myself in a blanket. I asked correctional officers for medical care. They said they would ask medical to see me, but no one came. I also asked to speak with the lieutenant, but he did not come either and the officers did not come back to check on me. I did not see a medical professional for about two weeks. By that time my symptoms were gone.
7. I was never tested for the coronavirus. To my knowledge, only one person on my unit has been tested.
8. Recently we have been given cleaning supplies and cloth masks. We got the masks in or about late April and the cleaning solution in or about early May. We have not been given gloves.
9. The jail has not been removing garbage regularly, and they are still having other inmates deliver the food to our cells. They let about eight people out at a time for less than an hour at a time to use the phones, email, and showers. Sometimes they let the people who are out of their cells talk through the bars to those who are locked in.
10. I have not been able to do laundry in a machine since late March. I try to wash my clothes in the sink.
11. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid

throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. The purpose of this study, procedures to be followed, risks and benefits have been explained to me. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 11, 2020
Westchester, New York

As reported me by Darius Davis,

/s/
Clay H. Kaminsky
Assistant Federal Defender
Federal Defenders of New York, Inc.
52 Duane Street, 10th Floor
New York, NY 10007

Counsel for Darius Davis

EXHIBIT 15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF TIFFANY
DAYS

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

1. My name is Tiffany Days and I have been housed at the Metropolitan Correctional Center (“MCC”) since August 14, 2019. My Registration Number is 76333-054. I have been housed on Unit 2 since arriving at MCC.
2. I am 39 years old.
3. I have severe asthma. I am on MCC’s “at-risk” list. About one and a half years ago, before I was incarcerated, I had to be hospitalized at St. Luke’s for breathing issues.
4. Beginning around March 29, 2020, I was not feeling well. I was very fatigued and lightheaded. I asked the unit team to call medical and they said they would, but no one came. When the pill line staff came through our unit, I told them I did not feel right but they just said I had to see medical on a sick call. When my temperature was taken, I tried to ask for help but the jail staffer told me it was someone else’s job.

5. On Friday, April 3, 2020, I was even more tired and had begun to cough up a lot of phlegm. At least ten other women in my unit were also not feeling well, so the unit team got medical staff to come. I was taken to the exam room in my unit to get my temperature taken and the nurse said it was high. The nurse then picked up the phone and called the doctor, saying, "We have another one." The nurse then described my symptoms to the doctor.
6. When I saw the nurse on April 3, she rushed in about ten of us around count time to examine us. After she saw me and said I was sick, she never gave me a mask. She handed me two pairs of gloves and they had me walking around the unit after the exam. Another woman I was next to got sick the next day with a high fever and was quarantined in her room. She could barely get out of her bed. She stayed in quarantine for a couple of weeks.
7. About two hours after I saw the nurse, after count was over, a captain came and walked me to the suicide watch room, which is used as the SHU for punitive measures in the women's unit. I asked why I was going there since I had no cellmate and could be isolated in my cell. The captain just told me to get in. The captain was not wearing a mask. Only medical staff had masks at this point.
8. The first few nights I was in SHU, I had no sheets or blanket. Cold air was blowing out of the vents right over my head on the bed. I think the staff had not been properly educated about COVID-19 at that point because various staff members would walk by me in SHU and make comments like, "Let's see who's infected."
9. I asked the officers for water but they didn't give me any. They told me to just drink from the sink in the cell. I was so dehydrated. One day I was so dehydrated my lips were

bleeding and blood was coming through my mask. The medicine they gave me said to take it with a full glass of water. The sink in SHU is full of spit - it is very dirty. I wasn't given cleaning products until about the eighth day I was locked in there, when I was given products and 20 minutes extra to clean the cell.

10. The first two days I was in SHU were the weekend, and no one checked on me. Staff just put food through my door.
11. Starting on Monday, someone would come by and take my temperature and blood pressure through the feeding slot on the lower part of the door. They would ask how I was feeling but they never opened the door to check on me. I felt like they were scared to touch me, even though the doctor had a mask on.
12. I asked for a COVID test but they told me that they did not have any tests.
13. When I was in isolation, there was also not enough food. In the morning I would get cereal and milk. For lunch we were getting peanut butter and jelly with expired chips. At night we were getting a little pack of four slices of bread and a few slices of bologna or turkey and a granola bar. We just started getting hot meals again a few weeks ago. I have never drunk milk when I was sick before. I am asthmatic. When you have phlegm on your chest the doctor does not recommend milk and peanut butter. I think this food gave me diarrhea, I had to bang on the door and beg for toilet paper from a male guard.
14. The whole time I was very scared I would not make it out of SHU.
15. Since I came out of isolation, I have been experiencing a loss of circulation in my fingers. I just have shooting pain through my fingers to my wrist and hands and then a numbness. I have never felt this before. I try to shake it out, but it does not help. I called psych on Friday, May 15, because I wasn't feeling good. I keep thinking about when I had been in

isolation. I was also having chest pain in addition to the pain in my wrists and hands.

Psych called the doctor who told me it might be stress. She didn't even listen to my chest.

The pain is not stopping though. I am scared to get sick again.

16. Around the time I got sick, a lot of officers, including the warden, disappeared. I think they may have gotten sick but I don't know.
17. The day before our unit was inspected, we were instructed to clean it ourselves. That same day they put up COVID informational posters. Early on, staff were bringing in extra cleaning supplies to clean their own bubble but we had none of that.
18. They stopped selling batteries since February so we can't listen to the TV. We all have Walkmans but no batteries so we can't listen to the news to know what we should be doing to protect ourselves.
19. They just brought two little bars of soap per person the day before the inspection. Before that we didn't have any soap. We never know when we are going to get soap. The only thing they make sure to give us is toilet paper. But I had to complain to the warden about that because they were giving us only one roll from Tuesday to Saturday. That is not enough for women. When I was in isolation, I got my period and had to bang on the door and beg for pads and he brought me tampons.
20. The phones are cleaned by white cloths. There is spray in the guard bubble. We only have Pine Sol and Fabuloso to clean the unit or cells ourselves.
21. I have one loose surgical mask that we have been given once per week starting April 14, 2020. We are now each being given two cloth masks, but they don't fit my face well. We are supposed to put all the masks in the laundry together but we don't want to share masks with each other this way.

22. We are in quarantine but they act like we are in lockdown. We have to beg for gloves, cleaning supplies, and to see medical.
23. We have random officers in our unit. We don't have set officers here. The officers are working a 12-hour schedule, from 6 to 6.
24. I am still having chest pains on the left side.
25. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
New York, New York

As reported by Tiffany Days to
Hannah Rosner

/s Hannah Rosner
Hannah Rosner

EXHIBIT 16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF MANOLO
DONES

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

1. My name is Manolo Dones and I have been housed at the Metropolitan Correctional Center (“MCC”) since January 2019. My Register Number is 86214-054. I currently am housed on the 7-South unit.
2. I am 49 years old.
3. I have been a smoker, have severe food allergies, and have cirrhosis of the liver. I am also a recovering heroin addict.
4. There are about 75 people on my unit. We are housed in double cells. We share phones, email terminals, toilets, and showers.
5. New people last joined my unit, as best as I can remember, in the third week of March. One of the two new people who came in was coughing blood. After a day or two, BOP staff took him away; I don’t know where he went. Another person in my unit was

removed a little later. I think he tested positive for coronavirus. After he was taken from the unit, BOP staff also removed his cellmate and two others from the unit.

6. I have my own soap, which I buy from the commissary. Only about two weeks ago did MCC start giving out soap and some other toiletries. We are given one roll of toilet paper each week. If we run out, the only way to get more is to buy it.
7. MCC does not give us cleaning materials for our cells. The only cleaning implements available in my unit are a broom, dustpan, and dirty mop. The mop is so dirty that it is worse than nothing.
8. Recently, staff have begun spraying disinfectant around the unit. The disinfectant is harsh and causes me and others to have pain in our chests and throats and to cough.
9. MCC first gave us one mask each approximately three weeks ago. The masks are washable. If you don't or can't wash your mask, you don't get a new one. We have never been given gloves.
10. I am an orderly in my unit. In that job, I serve food to others in the unit. I was not given any protective equipment to do this work, not even gloves for handling others' food.
11. We have been locked down since March 13, 2020. This means I am in a small double cell with my cellmate for 23 hours a day.
12. This current lockdown came right after a series of other lockdowns. During those lockdowns I was also made to stay in my cell for 23 or 24 hours a day. While they were searching the whole facility, I was made to lie down on the floor for hours at a time. They also gave me an X-ray without my consent. All of my property was taken and destroyed without any explanation.

13. In mid-March, right before the current lockdown, BOP staff assaulted my unit using flash-bang grenades, gas, and beanbag guns. We were just watching TV. A staff member later told us that it was all a mistake. They were supposed to be responding to something that happened in a different unit. The aftereffects of the gas and grenades gave me chest pains, and I was vomiting for days afterward.
14. In early April 2020, I started to have significant pain when I breathed, and a dry cough. Both I and my counsel repeatedly asked MCC to give me medical testing and treatment, but MCC ignored our requests. I made these requests in person, because in my experience written requests or complaints don't get attention. My counsel's requests were in writing. Weeks later, in response to the requests from my counsel, I was finally seen by MCC medical staff. I received blood testing, but I have not been informed of the results of that testing. I have never been tested for COVID-19.
15. In general, I have had a number of health issues, but MCC has given me little treatment for either my underlying medical conditions or new illnesses, even though I keep asking to see a doctor. I have previously been diagnosed with cirrhosis of the liver, for which I have received no medication, or treatment at MCC. MCC does not give me food consistent with my severe allergies, which include being allergic to peanuts and tomatoes. I have had to be given an epinephrine injection because MCC gave me food that caused a severe allergic reaction, including difficulty breathing.
16. One occasion that I received medical treatment since I arrived at MCC that I can recall is a course of antibiotics I was given when I developed a pelvic infection and swelling approximately the size of a baseball in my lower abdomen. The doctor or nurse who

gave me the antibiotics said I probably got the infection from drinking the water here. I understand at least one other inmate may have gotten a similar infection.

17. More recently, this month, a cell door fell on my hand and injured it. MCC staff did not give me an X-ray for about a week and a half, even as my hand and wrist turned purple and I worried I had broken bones in my wrist. I still haven't been informed of the results of the X-ray.

Executed on: May 20, 2020
Briarcliff Manor, New York

As reported by Richard F. Albert, Esq. on
behalf of Manolo Dones

/s/ Richard F. Albert

Richard F. Albert (RA-5603)

Morvillo Abramowitz Grand Iason
& Anello P.C.
565 Fifth Avenue
New York, NY 10017
(212) 856-9600
ralbert@maglaw.com

EXHIBIT 17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF MICHAEL
FALU

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

1. My name is Michael Falu and I have been housed at the Metropolitan Correctional Center (“MCC”) since around November 14, 2019. My Registration Number is 07584-036. I have been housed on Seven South throughout my incarceration.
2. I am 32 years old, and do not have any serious medical illnesses. I am almost certain though, that I contracted coronavirus last month, though I was never tested for it.
3. There are around 96 people on my unit. The unit is broken up into six tiers, with roughly 15 people on each tier. We are housed in double cells. We share three phones, and five e-mail terminals, and there is one shower per tier. For the last several weeks, the shower in our tier has not had any hot water.
4. I believe that new people have come to our unit during the lockdown. For example, about a week ago I saw a new inmate that I had not seen before. But because we are let out so

infrequently, one tier at a time, it is hard to know how many new people have joined the unit during the lockdown.

5. I am almost certain that I had coronavirus. Several weeks ago, I had the following symptoms: cold chills, sweats, headache, a cough like no other I have ever had, loss of appetite, and loss of my senses of smell and taste. I was also constipated. For several days I barely got out of bed. My cellmate repeatedly asked the guards or anyone who came by to get me medical attention, but no one came. After several days, when the guards brought food and opened our cell, I stepped out. I told the guards that I would not return to my cell until I received medical attention. A lieutenant came and told me that he would make sure that I got medical attention, but that I needed to return to my cell, which I did. I did not receive any medical attention until several days later, when a doctor, who was taking temperatures in the unit, came to my cell. I told him about the symptoms I was having. Nothing in his visit suggested that he had come to see me because he had heard about my request for medical attention; instead, it appeared that he was just there because he was taking everyone's temperatures. After I told him about the symptoms, he prescribed medication for the constipation and fever. I did not ask the doctor to be tested for coronavirus.
6. I did hear other people, though, request coronavirus tests, but I know of no one who ever received one. Many other people on my unit were sick – coughing, complaining. My cellmate, for example, was also sick, with cold chills, and I heard him ask for a test and being told that tests were not available. I also distinctly heard another inmate, who was in a nearby cell, ask for a coronavirus test, and being told that the MCC did not have any tests.

7. Several weeks ago, we began getting non-washable masks, and we were told that we would get a new one every week. Recently, we received washable cloth masks, and since then I have not received another mask. I try to wear my mask when I go out of my cell. I have never been given gloves, nor have I seen any other inmate wearing gloves.
8. I have seen staff members coughing and sneezing. I believe that staff members work in more than one unit.
9. Orderlies from our unit clean the common areas. It seems that lately, the orderlies have been cleaning more thoroughly.
10. No one, however, cleans or disinfects our cells, or provides us with the supplies to do so. We ask for cleaning supplies all the time.
11. There are three phones and five e-mail terminals shared by everyone in the unit. No cleaning supplies are provided to clean the phones or the e-mail terminals between use. When I use the phone, I try to cover it with a sock or toilet paper.
12. Several weeks ago, for the first time, a washing machine was brought to the unit. Laundry is done once per week.
13. There was a period of time when people were coming around to take everyone's temperatures. But they've stopped doing that. I don't believe that anyone has come to take our temperatures in the last two weeks.
14. We have been locked down since around March 13, 2020. This means that I am in a small double cell with my cellmate for 24 hours a day, four days a week, and we are let out for around 50 minutes a day, three days a week. They let out around 10 people at a time. Within those 50 minutes we have to shower, send e-mail, use the phones. Showering has been very difficult because the shower on my tier has had no hot water.

The cell is often super cold. We are not able to step out of our cell when our cellmate needs to use the toilet. The food is terrible – we often are given baloney sandwiches for dinner. I am doing my best to maintain, but being locked down for so long is extremely stressful.

15. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. The purpose of this study, procedures to be followed, risks and benefits have been explained to me. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 8, 2020
Brooklyn, New York

As reported by Michael Falu to
Martin Cohen

Martin Cohen

Digitally signed by Martin Cohen
DN: cn=Martin Cohen, o=Federal
Defenders of NY, ou=Assistant Federal
Defender, email=martin_cohen@fd.org,
c=US
Date: 2020.05.11 10:22:36 -04'00'

Martin Cohen
Ass't Federal Defender

EXHIBIT 18

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ANTHONY
FLYNN

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

1. My name is Anthony Flynn and I have been housed at the Metropolitan Correctional Center (“MCC”) since August 7, 2019. My Registration Number is 87081-054. I have been housed on Unit 5 South since March 12, 2020.
2. I am 36 years old.
3. There are approximately 80 people on my unit. We are housed in double cells. We share phones, email terminals, and showers.
4. New people last joined my unit on approximately May 14, 2020; about eight people came
5. I have access to soap and was last given a hygiene kit on approximately May 8, 2020. Before March 12, 2020 there was a shortage of soap. I have never received hand sanitizer and have had to use newspaper intermittently as toilet paper when there is a shortage.

6. My unit is locked in 23 hours and 10 minutes of every day. Accordingly, I do not know how often my unit is cleaned or whether phones and computers are cleaned by MCC staff between uses.
7. Approximately one month ago, I was first given a disposable mask. Since then, I received two cloth masks. I wash them by hand on my own. I have never received gloves.
8. We have been locked down since March 13, 2020. Currently, I am in a double cell with my cellmate 23 hours and 10 minutes every day and am able to exit my cell for 50 minutes a day. On the weekends, I am locked in 23 hours and 20 minutes every day, and am able to exit my cell for 40 minutes a day.
9. Since we have been locked down on March 13, 2020, I have not had a meal outside of my cell. There are efforts to impose social distancing at phones and computer terminals, but we are still forced to bunk with someone which makes true social distancing impossible.
10. Around March 21, 2020, I began experiencing various symptoms, including a fever, chills, a very bad headache, and, after the fever went away, I lost my sense of taste and smell. I did not receive any medical assistance while I was sick.
11. I do not know exactly what happens now when someone is symptomatic, but I have only seen one person on my tier be removed from the unit for being sick.
12. I am concerned that we are not getting proper personal protective equipment and do not know why the jail is not selling masks or gloves at commissary.

EXHIBIT 19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF CARLOS
GARCIA

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

1. My name is Carlos Garcia and I have been housed at the Metropolitan Correctional Center (“MCC”) since October 16, 2019. My Register Number is 87297-054. I have been housed in several different units since October. I was originally in 11 North. Later, I spent a little time in the box and then went back to 11 North. On March 2, 2020, I moved out of MCC to Otisville for four or five days after someone brought a gun into the building. When I was brought back to MCC on March 6 or 7, I was placed in 5 North. From April 2nd to April 19th, I was placed in an isolation unit because I was really sick. On April 19th, I was put back in 5 North and have remained there.
2. I am 36 years old.
3. As a child I had asthma and I was told that my heart was undersized. If I do too much activity, I get short of breath. I told the BOP but they haven’t done anything.

4. There are somewhere around 85 to 96 people on my current unit, 5 North. We are housed in double cells. I share a toilet and sink with my bunky and everyone on the unit shares phones, computers for email, tables to eat at, and showers.
5. Even before the virus, things were bad at MCC. We have not had heat in our unit since around December. Even now in May, I sleep with two shirts, a sweater, two pair of boxers, one pair of pants and three blankets and it's still cold.
6. On February 27 when I was still in 11 North, things got worse when someone smuggled a gun into the building and we were locked in. We were locked in our cells 24 hours a day. The kitchen closed after the first day and we started getting cold bagged sandwiches for every meal. The guards started searching cells and searching people. Then the lights went out on the unit. The lights stayed out for five or six days. We didn't have any showers for five days. On March 2, they moved me and a lot of other people to Otisville. On March 6 or 7, I was moved back to MCC and into 5 North.
7. Once I was in 5 North we were still on 24-hour lockdown. After a week or so, we were let out and things went back to normal. Within days, around mid to late March, they started locking us in again, this time because of the virus. For the virus lockdown, they only let us out of our cells 50 minutes a day, but at first, I got to come out more often because I worked in the kitchen.
8. By the end of March, I got very sick and they wouldn't give me a COVID test or any treatment.
9. On Thursday, March 26, I was working in the kitchen and started to feel bad. After my shift, my head hurt so bad that I lay down to sleep. When I woke up the next morning,

March 27, my head still hurt and I was covered in sweat. I had never had a headache that bad before. I told a female C.O. named Lupo that I was too sick to work that day.

10. When the morning doctor, Joaquin, came to the unit that day, I told him I was sick. I told him I was sweating, I had a headache and my chest felt really tight. I also told him I wanted a COVID test. He wouldn't give me a test and he didn't check me for any symptoms and didn't take my temperature. The only thing he said was that I should put in a sick call on the computer.

11. That same day, March 27, after I spoke with him, I used the computer to put in the sick call, but I didn't see a doctor.

12. I was sick all weekend and into the next week. I was constantly coughing and I also felt a pain in my chest like someone was sticking me with needles. I wasn't sweating the whole time, but some nights I would wake up sweating and sometimes I would sweat in the day. I never saw a doctor or a nurse during that time and didn't get any treatment or medicine.

13. At that time, we were still locked in our cells just about all day. My bunky started to complain about all the coughing. He kept saying I was going to get him sick. After a few days, I moved to a different cell, so I wouldn't have any problems. My new bunky didn't complain, but by Wednesday he said I had to get some help because I was really sick.

14. On Thursday, April 2, 2020, my bunky and I both spoke to a black, male nurse who came on the unit. We both told him I had been really sick for a week and needed to see a doctor.

15. They finally took me out of the cell. I was given a mask (that was the first one I had received one) and they took me to the medical unit. In the medical unit they only took my temperature. I asked for COVID testing again and the doctor said they didn't have any tests.
16. They did not give me any treatment and no medicine. The doctor in charge, Dr. Bodig, told me to buy cough medicine from commissary.
17. I insisted that there was something really wrong with me and that I had been coughing all week. They finally said they would put me in isolation.
18. I waited in a chair in the medical unit for three hours and then then they took me to an isolation unit. They said they would keep me there in quarantine for two weeks. I thought they would give me treatment and medicine, but they didn't.
19. The isolation area was on the 3rd floor of MCC. I was locked in a cell alone 24 hours a day. They would come around twice a day, 8am and 3:30pm, to take my temperature. There was no other testing or treatment. I never received a COVID test. The only medicine I received was a ziploc bag with 12 Tylenols. The BOP printout label on the medicine was from two or three months before. I only took a few pills and I still have the bag and the label.
20. When I first was placed in isolation I was able to make a call or two, but later they said that the warden had changed the policies and that people in isolation could no longer have access to phones at all. I wasn't able to tell my family or my lawyer what was happening.
21. When I first went into isolation I wasn't getting showers and they only started giving us showers three days before I left the isolation unit.

22. We weren't able to access commissary in isolation. There were initially no hot meals and we received bagged food – bologna or peanut butter and jelly sandwiches and chips – for all three meals. Five days before I left isolation, they started given a hot meal for lunch. The other two meals were still bagged sandwiches. The only thing to drink was water from the sink.
23. When you are in isolation they are supposed to do a check on the inmates every 30 minutes, but they never did that.
24. While in isolation I could only see the inmate in the cell directly across from me, but I could talk to and hear other people. Lots of people were sick and we all talked about how bad things were.
25. The inmate in the cell across from me was a Hispanic man. We talked a lot and I sometimes would translate for him with the guards who brought the food or the people who took our temperatures because he didn't speak English. At night he would stay up talking to me. He said he was scared he was going to die because he kept coughing and he couldn't breathe.
26. Before the two weeks were over my cough went away, but I feel like I could have died in there with no help.
27. On April 19th, they took me out of isolation and put me back in 5 north.
28. Now that I am back on 5 North new people continue to join the unit. At least one new person came to the unit today, May 12, 2020.
29. When we were on lockdown because of the gun, there was no cleaning in the unit and no one removed the garbage. Garbage was piled up everywhere and the unit smelled like vomit and trash. There were flies everywhere.

30. When that lockdown ended, the unit was cleaned up. Orderlies were taking out trash and cleaning up, but they didn't have masks or gloves on before I went to isolation. By the time I got back from isolation on April 19, the orderlies had on masks and gloves.
31. About a week ago, a man came to the unit with some type of a machine and sprayed chemicals. They said it would help kill the virus.
32. Before the gun incident in February, they used to give us cleaning supplies once a week so that we could clean out our cells. They have not given us cleaning supplies in months. When the cells are open, I try to brush things off. I also know some of the orderlies and have occasionally been able to get one to lend me their cleaning bottle to clean off my toilet and sink.
33. When I first arrived in MCC, they would give us soap every week. But they haven't given us soap for months, they stopped in February during the lockdown because of the gun. Now every week they give each inmate a bag with a toothbrush and toothpaste, shampoo, deodorant and a comb. They don't provide soap. If you want soap, you have to buy it with your own money from commissary.
34. They used to give each inmate one roll of toilet paper a week, but a week or two ago they started giving us two rolls a week.
35. Within the last few weeks orderlies have started cleaning the phones and computers throughout the day after people use them. They weren't doing this before.
36. They give us one new mask every two weeks. They are made out of cloth.
37. My unit did not have a laundry machine for a long time. We would all drop laundry one day a week and it was taken from the unit and washed. I was concerned about my laundry getting contaminated because I didn't know who would be washing it, who else's

clothes they would be mixed with and whether they were sick. I used to wash my clothes in the shower, but I wasn't always able to because I didn't have soap. They just installed laundry machines in our unit a week or so ago.

38. Since the lockdowns started because of the virus, I have never heard of anyone actually getting COVID testing.

39. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. The purpose of this study, procedures to be followed, risks and benefits have been explained to me. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 13, 2020
South Orange, New Jersey

As reported by Carlos Garcia to Jennifer Willis

/s/ Jennifer Willis

EXHIBIT 20

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center

Respondent.

No. 20 Civ. 3315

DECLARATION OF RODNEY
GRIFFIN

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

1. My name is RODNEY GRIFFIN and I have been housed at the Metropolitan Correctional Center (“MCC”) from 4/3/2018 to the present. My Registration Number is 37897-054. I have been housed on 11 South unit since February 27, 2020. Prior to that, I was housed in unit 5N. I was sentenced on 1/9/2020 and scheduled for transfer to my designated facility on February 17, 2020 but have not been transferred due to the lockdown and COVID-19 pandemic response.
2. I am 55 years old.
3. There are currently 22 people on my tier. There is a maximum capacity of 26 people per tier. We are housed in an open dorm with bunk beds placed only two feet apart separated only by a locker making the recommended six-feet of social distancing impossible. We have had as many as 25 people at a time on our tier. The unit is designated for people over the age of fifty with compromised health, cadres and food workers, but many times the unit receives inmates that have been returned from quarantine and/or the Special Housing Unit. We share five phones, four email terminals, four computer keyboards, two tables to eat at, and one bathroom with one shower, one toilet, and one sink.
4. Two new people last joined my unit during the week of 5/11/2020.
5. I have received soap every two weeks. No hand sanitizer has been distributed. Toilet paper is distributed two to three times per week, one roll at a time.

6. I have received enough cleaning supplies for my dorm and was instructed to keep my area clean. Cadre inmates come by weekly to pickup garbage only.
7. No additional or increased cleaning has been done on the unit. Although I keep my area clean, the dorm itself is “nasty.” It is extremely dirty and we are all in close proximity to each other. There is no way to get fresh air and no opportunity to air out the dorm. We are instructed to clean the phones and keyboards between uses but are rarely supplied with cleaning spray in the phone and email terminal area shared by everyone. There are only two tables in the unit that are each eight feet long making it impossible for the number of people on the unit to eat there and social distance. Therefore, most people eat on their bed.
8. I received disposable face masks for the first time three weeks ago. The masks were the standard blue and white disposable surgical masks. I received three masks and used one per week. One week ago (week of 5/11/2020) I received a re-usable, washable face mask made of fabric. I am responsible for washing my mask daily. No additional masks have been provided since I received the washable mask. No gloves have been supplied at all.
9. We have been locked down since March 13, 2020. This means I am in an open dorm with 21 other people in bunk beds separated only by a locker. This allows for just two feet of separation between individuals. There is no way to practice six-feet of social distancing. When the lockdown occurred on February 27, 2020, we were locked in completely. There were security shake downs every two hours for two weeks. All of my property was confiscated and has not been returned including my eyeglasses which I need to be able to see and read. The total lockdown continued for six weeks. This means I was locked in with no movement and no phone calls. I had to eat on my bed and was served an ice-cold frozen sandwiches three times a day. The guys on the unit began asking for help from the psychiatric/mental health staff because they had not heard from their families or spoken to anyone in weeks. Everyone was worried about their families and were not allowed to contact anyone. Due to the shake downs, officers confiscated all radios leaving them with no information about the pandemic or what was going on outside of the facility. After six weeks of this, we were allowed to talk on the phone and send emails three days a week (Tuesday, Wednesday and Friday) for about an hour a day. We were allowed to shower every two to three days. About a month ago, a twenty-two hour lockdown and two hour free time daily schedule began that continues to this day.
10. Social distancing is impossible. There is no social distancing practiced on the pill line because there is no space for it. Meals are eaten in bed or standing in a corner because there is no room on the two dining tables to allow for social distancing. Even when eating on the bed, we are merely two feet apart. Everyone on the unit is allowed to make calls and send emails for a period of about an hour and forty-five minutes. The seats for the phones and terminals are not six-feet apart. Everyone sits close together and the phones and email terminals are not wiped down between uses. At first, they provided spray bottles with cleaning solution and rags for about a week but those have not been provided since. The guards generally keep their distance when distributing mail or addressing them. However, random searches of the units by officers that are not regular staff members continue. They do not keep their distance and come in at least weekly since the

initial lockdown on February 27, 2020. It is not clear where these search teams are coming from.

11. I experienced coughing, achiness in my body, chills and sweating. I was unable to get out of bed and had no appetite. The symptoms seemed to pass from inmate to inmate within the dorm. I asked the officer and person distributing medication on the pill line for medical help orally but was told to lay down and given Tylenol and Motrin. These symptoms lasted at least three days and no one came to provide care from the medical staff. I did not ask for testing because no one is being tested. Even inmates returning to the unit after quarantine do not receive testing. Many on the unit have begged for medical attention and no one has come to help.
12. Many of the guys on my unit experienced symptoms. They called out for medical help and were ignored by officers and told to lay down. Many coughed through the night and complained of difficulty breathing but no medical help came. Those experiencing symptoms were extremely weak, could barely eat or get out of bed.
13. When someone is symptomatic, they usually speak with the person running the pill line. I have not seen any doctors or medical staff respond to oral requests for help. No one could submit medical requests via email because they were on lockdown most of the time and could barely get out of bed. The staff only came to get one inmate because he allegedly was exposed to an inmate that tested positive and had 102 degree fever during a court appearance. He was placed on quarantine and returned to 11 South without testing. Only one other guy was removed from the unit because he passed out on the floor. He was also returned without testing shortly after being removed from the unit.
14. The facility is not doing anything to protect us from getting sick. People are contagious everywhere in close proximity and nothing is being done to prevent the spread. Orderlies come in only to collect garbage. They are wearing masks but travel throughout the facility to different units. Common areas are not being cleaned at all. We are responsible for cleaning our area but the bathrooms, showers, eating area, email terminals and phones are not being cleaned by anyone. No laundry service was provided until two weeks ago (week of 5/4/2020). This means we have had the same bedsheets and clothing since the end of February. I was able to wash my underwear and socks in the sink by hand but only had one pair of each due to the searches starting February 27, 2020 when all of my property was confiscated. We were not provided clean sheets or a change of clothing during this period. Two weeks ago one washing machine and one dryer were brought into the unit. The cadre staff now collects laundry and washes it once a week for everyone on my tier.
15. The staff is wearing black fabric face masks. I have seen all staff wearing masks but only some wear gloves.
16. I have seen three staff members exhibiting symptoms. I saw Correctional Officer Ms. Roberts coughing without covering her mouth or wearing a face mask. She was coughing repeatedly for several days in the unit. She went on sick leave for a month after that. Warden Vitale also came through our unit and I observed her coughing and she looked

like she was coming down with something. Lastly, an officer known as “Ms. Ace” also exhibited a cough. All three staff members took time off for about a month.

17. I am unaware if staff works on different units but cadres on my unit travel to different units to pickup garbage and do laundry.
18. I have not seen any special measures taken in the facility to clean or prevent the spread of COVID-19 or to prepare for the inspection. I have not seen anything done to help the situation after the inspection either. The conditions continue to be deplorable.
19. I am concerned because I have been designated but cannot be transferred due to COVID-19. New people continue to come into the unit and not many have received compassionate release. I am worried I will get sick because no precautions have been taken to protect us or prevent the spread of the virus.

Executed on: May 20, 2020
New York, New York

As reported by RODNEY GRIFFIN
to Elba L. Torres-Perez, LMSW

/S/ Elba L. Torres-Perez
Client & Mitigation Specialist
Federal Defenders of New York

EXHIBIT 21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF CHRIS
KARIMBUX

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

1. My name is Chris Karimbux, my Registration Number is 13025-104. I have been incarcerated at the MCC since January 13, 2020. I am currently housed on 11S. I was previously housed on 5S, but during the search for the gun that a correctional officer brought into the facility, they moved me and many other inmates to FCI Otisville. We came back right before the facility was locked down because of COVID-19, on March 13, 2020, and I have been housed on 11S ever since.
2. I am 38 years old. I have no preexisting medical conditions.
3. When we came back from FCI Otisville, one of the guys on my unit, Brian Capellan, got sick pretty quickly. He was coughing and had fever and chills. He was on the bunk underneath me. Medical just left him there.

4. Sometime around the end of March or early April, I developed a high fever. I was shaking and my whole body was in pain. I lost my sense of smell. I sent requests over the computer to be seen by medical, but no one came.
5. At that point, the nurse was coming to take our temperatures about two times a week. (Later on, this increased to once a day most of the time.).
6. One day, the nurse took my temperature and it was 105 degrees. I asked for medicine or a test, and she said no, that it had to be 106 degrees for that to happen. She gave me Tylenol and told me to take two tablets every four hours. I went back to my bed. My symptoms lasted over two weeks.
7. My bed is a bunk bed very close to everyone else's bed in my tier.
8. I started having trouble breathing. The other guys in my tier made me hot tea and helped me take hot showers to open up my lungs. I was afraid it was the end.
9. No one gave us supplies to clean in the tier when Brian and I, and other guys, got sick. And no one came and sanitized our tier.
10. New guys continue to join our unit, as recently as two or three days ago a new person came.
11. Staff continue to come in and out of our unit from other units.
12. Before the inspection by the doctor last week, the officers ordered the orderlies to scrub the unit, and they put up signs about COVID, and they made us all wear our masks. I also saw that a staff person came around and sanitized the unit with a backpack and a hose full of some kind of spray while the inspection was happening. That has never been done on our unit before or since.

13. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 19, 2020
Brooklyn, New York

As reported by Chris Karimbux to
Deirdre D. von Dornum

/s/ Deirdre von Dornum

Deirdre von Dornum
Federal Defenders of New York

EXHIBIT 22

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ANTHONY
LUNA

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

1. My name is Anthony Luna and I have been housed at the Metropolitan Correctional Center (“MCC”) since December 2019. My Registration Number is 65176-050. I have been housed on unit 11S since late March or early April. I am a cadre inmate. I was previously housed in 5S but was moved to 11S after the gun incident at the MCC in March.
2. I am 32 years old.
3. I had my adenoids removed as a child because of difficulty breathing. I also have a bone spur that causes me constant pain.
4. There are approximately 124 people on my unit. We are housed in an open dorm. We share phones, email terminals, tables to eat at and showers. There are 24 people in my dorm.

5. There are many problems with the conditions in my dorm including mold on the ceiling and floors, a leaking sink, mice and bug infestations, a lack of central air, humidity that makes it difficult to breathe and clogged vents.
6. We have been on lockdown since the end of February. I haven't had fresh air for almost 90 days. We are only let out for 1 hour a day.
7. In the beginning of April, I could barely breathe, had severe body aches and heavy sweating. Many other people in my tier had similar symptoms around the same time. Some inmates couldn't even get out of bed for 2 or 3 days at a time. The only medical care we received was ibuprofen and fever checks. 3 people in my tier had very high fevers around that time. They were not isolated or tested, they were just left in the tier.
8. I requested a test for COVID-19 using Trulincs, but I never heard back. I also asked a nurse for a test, but was told that the MCC was not doing any. I do not know anyone who has been tested for COVID-19. I did hear about one inmate named Russo being taken to the hospital.
9. The only way to get seen by a doctor at the MCC is when something dramatic happens, like someone passing out. We do not receive medical attention otherwise.
10. In the beginning of April when many people in my tier were sick, we all told the staff how we were feeling. We also asked why they were not taking the 3 people with fevers to be checked. The staff did not do anything in response.
11. At first we were given thin disposable masks. We were recently given a cloth mask, but it doesn't fit me well and I can barely breathe with it on so I continue to reuse the same disposable mask. I have never been given gloves, hand sanitizer or Kleenex.

12. Recently we have been receiving pink disinfectant. I understand that we were also supposed to be given a cleaning rag, but we haven't received it.
13. There is no disinfectant by the phones or computers. The orderlies clean the phone and computer areas between each tier using them, but not in between each use. We are not given enough disinfectant to clean the phones and computers between each use.
14. I am an orderly. My jobs include cleaning the computer and serving food. I am not given extra masks for cleaning or a hairnet for serving food. If I want gloves to do either of these jobs I have to ask the guards to use some of theirs.
15. Recently we started getting off brand soap once a week. I do not think it is antibacterial. We were only given soap sporadically before then.
16. Each tier has one day a week for laundry, which is done by an orderly.
17. The same week of the recent inspection the guards forced people to clean and they put up signs relating to COVID-19.
18. I believe staff work on multiple units. When they do the count, they bring in guards from other units. They also bring in staff from other institutions. Not all of the staff wear their masks at all times. I worry that the staff could bring in the virus from the community.
19. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions

about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
New York, New York

As reported by Antony Luna to
Timothy C. Sprague of Covington &
Burling LLP

A handwritten signature in blue ink, appearing to read "Timothy C. Sprague", written over a horizontal line.

EXHIBIT 23

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF EMIL
MATUTE

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

1. My name is Emil Matute and I have been housed at the Metropolitan Correctional Center (“MCC”) since May 22, 2018. My Registration Number is 85716-054. I have been housed on 7N since February 2020.
2. I am 25 years old.
3. I have no history of serious illnesses or medical conditions
4. There are 70-80 people detained on my unit. We are housed in double cells.
5. My cellmate and I both lost our sense of taste and smell for about three weeks, starting in mid to late March of 2020. I drink black coffee every morning. During this time, I could not smell or taste the coffee. Neither my cellmate nor I sought medical attention for our lost sense of taste and smell.
6. From early April 2020 until present we have been confined to our cells for 23 hours per day. While in our cells staff would come in and request to take our temperatures, if a

person's temperature was above normal that person was immediately be taken to the SHU.

7. In early April 2020, six or seven people from my unit have been taken off with COVID-19 symptoms, and taken to SHU. I have talked to six of them since they came back. All six said that when they were in SHU, they did not receive any medical care. They just had their temperatures taken daily.
8. From February 2020 until about two weeks ago, sick calls went unanswered.
9. We were given washable masks two weeks ago, but no detergent to wash the masks. Only people who have money can buy detergent on the commissary.
10. There is a toilet in our unit that has been leaking since February. It had been ripped from the wall when the officers were searching for the handgun that one of the officers had brought in. Mice crawled into the unit from the back of the toilet. Urine and feces leak into the unit from the back of the toilet. We have to put a mop in it to stop the waste from coming out.
11. The showers in our unit have light fixtures hanging from the ceiling with exposed electrical wires.
12. Two weeks ago, our unit was supplied a washer / dryer. Before that, laundry could not be done regularly.
13. From the beginning of the COVID-19 outbreak until May 8, 2020, we received only one hot meal per day. Beginning May 8, 2020—I believe in anticipation of the court-ordered inspection—we once again began receiving two hot meals a day. Lunches during this pandemic period often arrived frozen. We would use the overhead lights in our cells to try to thaw the lunch food. When we get box lunches, they often contain food that is

clearly expired or has gone bad. Last week I received two bags of chips, one with an expiration date of October 2019 and one with an expiration date of December 2019.

When we receive bread in plastic wrappers it is often moldy.

14. Since the pandemic started, mail has also been affected. Legal Mail that is stamped with red in “Special Mail – Legal Mail – Open only in the presence of Inmate” is opened before we receive it. Social mail comes very infrequently, only about one or two pieces a month.

15. We have been given no law library access.

16. On Thursday, May 7, 2020, we were given cleaning supplies by the officers and Assistant Warden Edge came around and told us to clean up everything.

Executed on: May 20, 2020
New York, New York

As reported by Emil Matute to
Thomas Ambrosio, Esq.



Thomas Ambrosio
Attorney for Emil Matute

EXHIBIT 24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GAL VEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF RICHARD
MICHEL

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

1. My name is Richard Michel and I have been housed at the Metropolitan Correctional Center (“MCC”) since approximately January 2020. My Registration Number is 90422-053. I have been housed in the third floor quarantine unit from approximately April 1 or 2, 2020. On Thursday, May 14, 2020, there was a fire in the cell next to me. I was then moved to a quarantine unit on 5 South. I was told that I was supposed to be removed from quarantine on May 15, but since my transfer to 5 South I have been told that I will remain in quarantine another two weeks. I have been in quarantine units since April 1 or 2.
2. I am 39 years old.
3. I have the following medical conditions: sickle cell anemia. I have been seeking treatment since I was first brought to federal custody in September, 2017 – first at the Nassau County Jail, then at MDC Brooklyn, and now at MCC New York. I was taken to

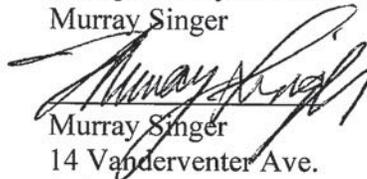
a hospital at 14th St. and First Ave. in Manhattan in mid-March, 2020 for surgery on my left eye. I returned to the hospital for follow-up care about two weeks later. When I came back to MCC I was placed in quarantine on the 3rd floor. This was around April 1st or 2nd. I returned to the hospital on or about April 8, 2020, was tested for coronavirus at the hospital, and was told I was positive. At my next visit to the hospital I was tested again for coronavirus and was told that I was positive. A week or two after that (I believe in late April or early May), I was tested for coronavirus at MCC and was told that I was negative. I have not had any symptoms. I was taken back to the hospital on April 29 and had surgery on my left eye, and returned to the hospital the next day to have the dressing removed. I have lost sight in my left eye. I am told that my retina has been destroyed by my disease. I believe that the delay in getting treatment has led to the loss of sight in my left eye. I was supposed to have a follow-up appointment since April 29 to check the status of both of my eyes, but have not been taken back to the hospital.

4. There are 9 people on my current unit – there were approximately 20 people in my unit on the 3rd floor. I am housed in an individual cell. I share telephones and showers with other inmates in my unit – we have not had access to computers or common areas.
5. There is a leaking toilet and a dripping faucet in my current cell. My cell on the 3rd floor was extremely cold.
6. While on the 3rd floor, other inmates were sick and/or complained of being sick.
7. Whenever anyone was sick and tried to get the attention of staff to report their symptoms or ask to see a doctor, it was often hard to get the attention of a CO. Many inmates who wanted to see a doctor were not taken to see a doctor.
8. I am not aware of any other inmate being tested for coronavirus, unless they were taken to an outside hospital and tested at the hospital, as I was.

9. There are no orderlies on my tier. Food is brought by corrections staff, some of whom are wearing masks, others are not.
10. I have on occasion seen staff members coughing in the unit.
11. I have been given soap, tissues and a mask. I have not been given any cleaning supplies for my cell.
12. I have not been able to do laundry for a long time. I was given clean clothes last week a day or so before visitors from the court came into my unit.
13. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
Port Washington, New York

As reported by Richard Michel to
Murray Singer

A handwritten signature in black ink, appearing to read "Murray Singer", written over a horizontal line.

Murray Singer
14 Vanderventer Ave.
Suite 147
Port Washington, NY 11050
516-869-4207
Cell: 516-662-4950
msingerlaw@gmail.com

EXHIBIT 25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF AHMAD
JAMAL NAQVI

AHMAD JAMAL NAQVI declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Ahmad Jamal Naqvi and I have been housed at the Metropolitan Correctional Center (“MCC”) since November 26, 2019. My Registration Number is 87524-054. I am currently housed on Unit 11 North, Tier 3. I was formerly on Unit 11 South, but I was suddenly moved, without explanation, on around March 6, 2020.
2. I am 51 years old.
3. There are approximately 80 people on my unit. We are housed in double cells.
4. I have a severe case of obstructive sleep apnea. I was born with a narrow windpipe, which makes it difficult for me to breathe. I must be connected to a continuous positive airway pressure (CPAP) machine anytime I sleep. Otherwise, I stop and start breathing up to fifty times every ninety minutes or so. I have used a CPAP machine for over twenty years now. The MCC is supposed to provide me with an outlet and extension cord so that I can use my CPAP machine here.

5. I also suffer from high cholesterol, for which I take a 40mg dose of statin medication daily. According to my doctors, the combination of my severe sleep apnea and high cholesterol increases my risk of stroke and heart attack, and this risk is exacerbated whenever I sleep without a CPAP machine.
6. When I was moved from 11 South to 11 North on around March 6, 2020, I was placed in a cell without access to an outlet or extension cord to plug in my CPAP machine. I immediately reported the issue via sick call request, and I also raised my concerns with any nearby guards who would listen. I was told that I would soon be moved back to my cell on 11 South, where there are outlets by the beds. I was not moved back.
7. For several weeks after March 6, 2020, I slept two to three hours a night as I waited for the MCC to give me an extension cord. I was anxious about sleeping for extended periods of time because I knew it could put pressure on my heart. I was in fear for my life.
8. On March 15, 2020, my unit counselor--Mr. Bullock--and a guard were conducting the evening count when I told them about my inability to use my CPAP machine. This was the third time I had spoken to Mr. Bullock about this issue. He told me he would get me an extension cord the next day, March 16, 2020.
9. The Associate Warden--Ms. Edge--paid a visit to my unit on March 16, 2020, and I told her about the seriousness of my condition. She took my name and Registration Number down and told me she would get me an extension cord.
10. After I alerted my defense counsel about my situation, they contacted the MCC's legal department via e-mail on March 18, 2020. They followed up on March 26, 2020 after receiving no response. The MCC's legal department did not respond to either of these emails.

11. On around March 16, 2020, I began experiencing chest pain. Over the next several days, my chest pain increased and I could only take a few breaths without coughing throughout the day. I continued to get very little sleep at night, and I let out short spurts of breath to avoid overburdening my heart and lungs.
12. On March 25, 2020, I spoke to a guard on duty about my situation, who then notified the lieutenant on duty. At that moment, however, the lieutenant was preoccupied because an inmate on my unit was suspected of having COVID-19 and was being transferred by ambulance to the hospital.
13. On March 27, 2020, I spoke directly with the MCC head physician, who was present on our unit taking temperatures. He clearly remembered me and my apnea situation and was shocked that I didn't have an extension cord. He told me all he could do was issue a medical order and speak with the Associate Warden.
14. I spoke to a nurse about my symptoms on March 30, and he told me to report it to the nurse that visits my unit during the day to take temperatures. The next day, I stopped breathing twice. The pain in my lungs and my continuous cough continued.
15. On April 1, 2020, a guard named Mr. Scott--who I recognized from my old unit, 11 South--was walking through my unit alongside a nurse and I asked him for help. When he saw my need for an extension cord, he made a radio call. An extension cord arrived in less than ten minutes. I was relieved to finally be able to use my CPAP machine, but also frustrated that it had taken almost a month.
16. I kept a record of the above events by writing e-mails to my defense counsel
17. After using my CPAP machine again, I began to feel stronger, but my chest pain and cough persisted. I felt like I had a lung infection, and I also feared that I could have

COVID-19. There were other inmates on my unit who complained of chest pain and hacking coughs. I felt like there weren't enough nurses to tend to everyone. I feared for my life until gradually my symptoms began to improve.

18. Only in the last two or three weeks has the MCC regularly been distributing soap to me and other inmates. We were given a spray bottle to disinfect our cells, but these bottles are rarely refilled. Since the lockdown has started, my disinfectant bottle has only been refilled once. I have had to make my own disinfectant with hot water, shampoo, and dish detergent.

19. It is very difficult to get water to drink. I have to ask guards repeatedly for water. Meals are now served in our cell.

20. Inmates were recently given one cloth mask, which we were told to keep and re-use.

21. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. The purpose of this study, procedures to be followed, risks and benefits have been explained to me. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 12, 2020
New York, New York

As reported by Ahmad Jamal Naqvi
to Alondra Reyes of Federal
Defenders of New York

/s/ Alondra Reyes
Alondra Reyes

EXHIBIT 26

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF CAROLYN
RICHARDSON

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

1. My name is Carolyn Richardson and I have been housed at the Metropolitan Correctional Center (“MCC”) since August 1, 2016. My Registration Number is 89522-053. I have been housed on Unit 2 since arriving at MCC.
2. I am 44 years old.
3. I have the following medical conditions: closed angle glaucoma, bilateral iris atrophy, permanently dilated pupils, bilateral nerve damage, hiatal hernia, ulcer, and acid reflux.
4. There are 16 people on my unit. We are housed in double cells. I am in a double cell by myself due to my medical condition. We share phones, computers, showers, tables, sinks, television living area (including remote control to the television), and washing machine and dryer.

5. My cell conditions include the following problems: vents are filthy, sink is leaking, the floor above me leaks into my cell, there is mildew behind the toilet and sink, there is gunk from the vent in the ceiling (caked with dew, unclear what exactly it is), and there is constantly freezing air coming out of the vents. There are also many mice.
6. Three new people last joined my unit around the second week of March.
7. I do not think I have experienced symptoms. I was worried because I have had some chest pains on and off the past few weeks, but I believe it was bad acid reflux. I was given Pepcid, which helps it some.
8. When someone on the unit thinks they are symptomatic they walk up to an officer and tell them. I think most people have been telling officers, and not holding back, if they think they may have COVID-19. The officer is supposed to then tell medical to come down, but it always takes several days minimum. 9 out of 10 times the officer does not call up to medical right away. Medical never comes the same day. There is not a sick call buzzer available. Once medical does come, it is almost always a physician's assistant, not a doctor. There were two women on our unit with COVID-19 symptoms: Tiffany Days and Adrienne Roberts. Adrienne said she did not feel well and told an officer this. It took several days until the physician's assistant saw Adrienne. Tiffany complained for a week that something was wrong with her throat and by the time the physician's assistant saw her, she had a fever. I think that both Adrienne and Tiffany told guards multiple times a day about not feeling well. After the physician's assistant visited Tiffany and Adrienne (not at the same time), they were removed from their double cells and placed in a cell by themselves, but they were not removed from the unit. While Adrienne was in isolation she could not taste or smell anything. Tiffany and Adrienne

each were released from complete isolation after 14-days; they were not tested for COVID-19 as far as I know. They both share spaces with us as normal now.

9. As far as I have heard, no one has been tested for COVID-19 on my unit. I think both Adrienne and Tiffany asked for COVID-19 tests, but did not get tested.
10. We were given masks, but not gloves. At first, we were given one mask for several weeks and told to wash it out often. Later, they gave us multiple masks that were made by inmates, but they were very uncomfortable so we switched back to the first mask they gave us. Orderlies from other units pickup our garbage, but it is left by the door so the other orderlies do not enter our area for very long. Orderlies wear masks. Our unit orderlies clean the common areas and wear masks.
11. I buy my own soap from commissary. They have not given us free soap during the pandemic. We used to receive free soap, along with free toilet paper, but now we do not receive free soap. I still receive free toilet paper. I do not receive tissues, but never have. I have asked for hand sanitizer, but we were told at a town hall meeting that we will not be given hand sanitizer because they fear it will be turned into hooch.
12. I do not get any cleaning supplies for my cell. We sometimes take some of the cleaning supplies the orderlies use in the common area for our cells, but this is sneaking – we are not supposed to do so. We have asked for cleaning supplies for our cells but were just given watered-down Fabuloso, which is not a disinfectant. This is why we feel the need to borrow from the orderlies' cleaning stash for our own cells.
13. Laundry has always been done twice a week by the same orderly. There has been no change in the laundry schedule. The one orderly does all the laundry for my unit.

14. The guards do not keep a distance – there is no change with how close the guards stand from before COVID-19.
15. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
Saint Paul, Minnesota

As reported by Carolyn Richardson
to Nora Stephens

/s/ Nora L. Stephens
Nora L. Stephens

EXHIBIT 27

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ADRIENNE ROBERTS

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

1. My name is Adrienne Roberts and I have been housed at the Metropolitan Correctional Center (“MCC”) since December 12, 2018. My Registration Number is 86411-054. I have been housed in Unit 2 since arriving at MCC.
2. I am 60 years old.
3. I have the following medical conditions: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. I have been experiencing a general decline in health. My medication

has been changed at least two different times. My counsel had to request Judge Furman to order BOP medical to return my prescriptions back to what I was being prescribed by my doctors before being incarcerated at the MCC.

4. I was a tobacco smoker for 10 years and was addicted to and smoked crack for 20 years.
5. I am currently prescribed approximately 10 different medications including three inhalers. I have asked numerous times, but have not had any explanation, as to what each medication is, what it is for, and in the case of the inhalers, how to use them.
6. I require dentures to comfortably eat solid food. When I arrived here I was told I had to wait one year before I could see a dentist to get dentures or alternatively have a family member bring the dentures to me when they visited. When a family member did visit and brought the dentures, they were not allowed to bring the dentures into the facility. After 17 months at the MCC, I still do not have dentures. I am still using my gums in an attempt to chew whatever food is provided to me.
7. I am nearsighted and need reading glasses to read. I have been given the wrong prescription glasses by MCC. I have begun seeing spots and my vision has deteriorated since wearing the glasses given to me to read.
8. There are 16 people in my Unit. We are housed in cells, some with four to a room and some with two to a room. A couple of people, like me, are single-celled because of medical conditions. We share three phones, four email terminals, six dining tables, one microwave, one washing machine and two showers.

9. We have been locked down since March 13, 2020. I am in my cell for 21 hours a day seven days a week. I have not been allowed outside to breathe fresh air or see the sun since this lockdown began. I have not had rec on the roof since lockdown. Rec during this lockdown involves watching TV. People who watch TV do not social distance.
10. Four new people joined my Unit in the month of March. In the past week, B Tier flooded and three new people were brought to my Tier in the unit.
11. On April 15, 2020 I was given a surgical mask made of paper to wear. I had to use that one mask for at least a week before I was given a new one. The masks were not washable. On May 11, 2020 I was given a mask made out of cloth and told it was washable. I have not given back my mask to be washed because they do not give back the same mask after washing. I am afraid to put on a mask someone else has worn even if it has been laundered. Almost no other inmates are wearing the cloth masks. They do not fit properly. I am terrified of catching Coronavirus and want people to wear their masks. I used yarn and made string to help tie my mask tighter to my face.
12. An officer brings all of my meals on a cart. I eat in my cell.
13. Sometime in early April another inmate, Loren Piquant, was allowed to become my cellmate even though medical staff was aware that Ms. Piquant already had a fever. I was unaware that Ms. Piquant had a fever. Later when medical staff was in my Unit they saw Ms. Piquant in my cell and asked, "why are you in here". Ms. Piquant was then left in my cell with me overnight. The next evening when medical staff was in my Unit they saw Ms. Piquant still in my cell and said, "you

are not supposed to be in here, you have a fever". The medical staff person then took my temperature, saw that I had a fever, closed the door to my cell and ran away.

14. I was terrified. I now realized that Ms. Piquant had Coronavirus symptoms and I was locked in a cell with her. Panicked, I knew the only way to get taken out of the cell was to act as if I was going to hurt myself. So I began hanging a sheet up. The guards saw this and opened the cell door screaming and yelling. One of the guards had some kind of paint gun and put it to my head.
15. I was put in isolation after that. I was kept in isolation approximately 16 days. While in isolation I was given no masks and no gloves. My temperature was monitored. I had a fever. I asked for medicine. I was told to take the Tylenol I already had prescribed to me. Other than taking and keeping records of my temperature and blood pressure no other medical care was provided.
16. While in isolation, I was given frozen baloney two times a day, cold cereal once a day and sometimes expired potato chips. I was allowed outside for one hour a day and walked around the dorm and used the phone. I was not given anything to clean the phone with before or after I used it.
17. I know of at least five other women that had Coronavirus symptoms. Their names are: Loren, Tiffany, Daia, Santa and Debbie. Loren Piquant and Tiffany Days were given Tylenol and Azithromycin to treat their symptoms. Later they changed Tiffany Days medication from Azithromycin to Doxycycline.
18. When someone in the Unit is sick nothing happens. For three weeks I was told a doctor was coming. Only nurses and physician's assistants ever saw me. Even

before Coronavirus, my health issues required regular checkups with a doctor. I called the Federal Defenders Office asking for help. Eventually, they were able to get a doctor to see me.

19. Currently, if I want to see a doctor I have to put a sick call in through the computer in my Unit. Since lockdown there has been no call out to health services. The computer has not been working since Friday. The doctors do not come to examine or help me.
20. Aside from my previous and regular medical needs, I am scared to complain of symptoms of Coronavirus. I do not want to go back to isolation. Nobody wants to go to isolation - others in my Unit feel the same way.
21. Most officers that were eligible to retire put in for retirement. Many officers are not here anymore because they are sick.
22. Staff members are working in multiple Units. They work shifts from 6am to 6pm or from 6pm to 6am.
23. If I complain of being sick and do get to see a doctor all they do is take my temperature.
24. I was never tested for Coronavirus and I requested a test.
25. I require blood samples to be taken regularly [REDACTED]
[REDACTED] I was supposed to have a blood sample taken in early March 2020. No sample was taken despite my repeated requests. On May 11, 2020 a physician's assistant came to my cell and attempted to take a blood sample in my cell. I refused and insisted my blood be taken at the medical Unit under more sanitary conditions. After multiple requests I was eventually taken to the medical Unit and

EXHIBIT 28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF JOSEPH
SCHILIRO

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

1. My name is Joseph Schiliro and I have been housed at the Metropolitan Correctional Center (“MCC”) since early March. My Registration Number is 83125-053. I have been housed on 11 South in Tier 7.
2. I am 40 years old. I have a lifelong history of asthma.
3. There are 26 people on my tier. We are housed in an open dorm. The bunks are one on top of another and just a few feet to the left and right of each other. We share one toilet, one urinal, one shower, and one sink.
4. There was no washer and dryer in my unit until around April 7. We had to wash our dirty clothes in the shower, and hang them on the pipe to dry right above the tables we eat at. Each tier has to take turns to use the laundry machines. We do not have access to clean clothes. I have been trying to order socks, boxers, and t-shirts from the commissary, but they are saying they do not have them

5. There are rodents running around the dorm every night. They only started cleaning the dorm right before the inspection last Wednesday.
6. Around about April 16 to April 18, five new guys came into Tier 7. They had been put in the Special Housing Unit for 14 days for isolation and before that were from different units in the jail. They told me that they were brought to Tier 7 after they stopped having fevers. We only found out that they had been isolated after they told us. No one at the MCC told us about that. This made the people in my tier upset and caused some arguments. We did not have masks at that time, and neither did the new people who were brought in.
7. Around mid-March I had a cough and chills, but I did not have a fever. There was one night, in mid-March, when I fainted in the bathroom. I walked back to my bunk bed and fell down and fainted again. I was out for about two minutes and my dorm-mates had to dump a bucket of ice water on me to wake me up. They banged on the plexiglass covering the tier bars, but it took 25 minutes before medical came to see me. Dr. Yonnone came and took my blood pressure but left me in the dorm because I did not have a fever. I was not given any medicine because the doctor did not have any Tylenol on him. He said he would bring me something, but he never did. I could not use the computer to make a sick call request.
8. The first person to test positive for COVID-19, Brandon Parisi, was from my unit, 11 South. At least half of the people in my dorm were sick. There was a period of four to five days when the virus spread from one person to the next. Many people were sick from around March 15 to March 30. Specifically, Michael Brown looked grey for five days, he could not move because his body was aching. Anthony Young was coughing,

sneezing, was not eating, and lost weight. Adamu (that is his last name) was in really bad shape—he was coughing up phlegm and bile in the bathroom, could not eat or drink, and lost a lot of weight.

9. We all wanted to be tested for COVID-19 because we knew the temperature checks they were doing were not enough. We asked for tests and had screaming matches with Corrections Officers about getting tested.
10. I got a paper mask around April 20. I got a second paper mask about ten days later. Then I got two reusable masks around May 6.
11. In March they were not giving us soap. I got one average-sized bar in the first week of April. Last week, right before the inspection, they gave us two small bars of soap, like what you get at a hotel. I have begged for more soap, but the COs would say there is no soap here or in the warehouse so there is nothing I can do. I had to beg guys who have been at the MCC for a while to give me a little sliver of soap so that I could clean my clothes.
12. Until April 10 we had no cleaning supplies at all. It is now getting better and they are refilling our cleaning supplies regularly.
13. The phones and computers are not cleaned in between uses. They are wiped down only after each group of 26 is done using them. It is physically impossible to clean the shower or toilet between uses. There are not enough cleaning supplies for that.
14. I am a cadre member and I've been working in the kitchen since around the end of March. I work in the assembly line to pack up sandwiches. For the first week or ten days that I was working in the kitchen, we had no masks or gloves. Three of the corrections

officers we work with in the kitchen had been out with COVID-19. They did not have masks or gloves either during this time. We now have masks and gloves in the kitchen.

15. Correctional Officers did not have masks and gloves until the end of March. At that time we started getting upset that they had that and we did not. It was scary. We really started freaking out when they came in full hazmat suits to take our temperatures. They were not telling us anything and there was a lot of fear, tension, and anxiety.

16. Staff members are working 12 hour shifts right now. The staff members I see have their whole shift on 11 South, but they are mixing with each tier of 26.

17. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
New York, New York

As reported by Joseph Schiliro to
Ishita Kala

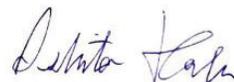


EXHIBIT 29

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF ANTONIO
SMITH

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

1. My name is ANTONIO SMITH and I have been housed at the Metropolitan Correctional Center (“MCC”) since December 9, 2019. My Registration Number is 43330-037.
2. I am 37 years old.
3. Between December 9, 2019 and February 29, 2020, I was housed on 5 South.
4. On February 29, 2020, I was moved into a cell in the Special Housing Unit (“SHU”).
5. While in the SHU I had one cellmate, Terrell Brown.
6. Despite being informed last week that the investigation that placed me in the SHU had been concluded and no charges were being brought against me, I am still in the SHU. I have asked when I will be moved back to general population but have not received an answer.

7. Around the second week of March, inmates who were visibly sick were transferred into the SHU. I was told by an Officer Rodriguez that those inmates had all tested positive for COVID-19.
8. A few days after the sick inmates were transferred to the SHU, I began feeling sick. I felt very tired and found it difficult to move or even get out of bed. My eyes were swollen and tearing. My nose would not stop running. I had a cough that felt different from any cough I have had before. When I coughed instead of producing mucus, a clear sticky substance would come out. I lost my sense of taste and my appetite. I was sweating a lot. During my illness, I lost approximately 36 pounds.
9. Around the first week of April, I was seen by Dr. Joaquin at MCC. He conducted chest x-rays and told me that I had pneumonia of the lungs. He prescribed me seven days of antibiotics and Tylenol.
10. After the x-rays of my lungs were taken, I was placed back into my regular SHU cell with Terrell Brown.
11. Neither Dr. Joaquin nor any MCC staff member said anything to me about quarantining myself from other inmates.
12. Around this same time, in the first week of April, Mr. Bullock (a case manager) brought half a cup of sanitizer to me and Terrell Brown to keep in our cell. He also gave us a spray bottle of disinfectant and told us to wipe down our entire cell, once we did, he took the bottle back. This is the only time I was provided with cleaning supplies.
13. A few days after my lungs were x-rayed, Terrell Brown and I were working in the laundry room washing other inmates' clothes. I worked in the laundry room for two or three days. Dr. Joaquin saw me working in the laundry room one day.

14. The next day, Dr. Joaquin told me that I had to stop working in the laundry room because I was supposed to be quarantined. This was the first time that anyone mentioned anything about needing to be in quarantine to me.
15. After Dr. Joaquin told me I needed to be quarantined, between 12 and 15 guards, all dressed in white suits, came and placed me in the quarantine tier for five days. I was told it was for five days because I needed to be quarantined for a total of fourteen days and eight days had passed since my chest x-rays.
16. Since my chest x-rays, the only treatment I have received is having my temperature taken. I got no treatment while in isolation. Temperature is taken by Dr. Joaquin through the food slot in the SHU cell door. No one has listened to my chest, my blood has not been drawn, and no subsequent x-rays have been taken.
17. After quarantine was over, Terrell Brown and I were moved back into the same cell.
18. It is still hard for me to breathe.
19. I have asked for my blood to be drawn but was told that they will only draw blood for inmates with temperature greater than 102 or 103.
20. I have asked to be tested for COVID-19 but no test has been given.
21. The only time I have seen staff members wearing gloves are when they are wearing the white suits, which is infrequent.
22. Recently MCC has been blasting the heat in the SHU cells. It is so hot condensation is forming on the walls. There is also black mold spreading from the floor to the walls. The ventilation is terrible, and the air is hard to breath.

23. I received one bulletin about COVID-19 in March 2020 and a second bulletin when I received the sanitizer in April 2020. The bulletins contained very little information aside from the fact that all visits were being cancelled.

24. I have never felt the symptoms I am currently feeling and have been feeling for weeks. I am terrified for my wellbeing. I wrote out my will and a letter to my daughter in case I die.

Executed on: May 22, 2020
New York, New York

As reported by Antonio Smith to
Valerie A. Gotlib of Gotlib Law
PLLC

/s/ Valerie A. Gotlib

EXHIBIT 30

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO, SHARON HATCHER, JONATHAN MEDINA, and JAMES WOODSON, individually and on behalf of all others similarly situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF JORGE SOTO

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

1. My name is Jorge Soto and I have been housed at the Metropolitan Correctional Center (“MCC”) since October 8, 2019. My Registration Number is 76355-054. I have been housed on unit 5N since early March. I was originally in 7N but all of us on the unit were moved when a gun was found in 7N.
2. I am 52 years old.
3. I have been diagnosed with moderate to severe asthma and COPD. I have been hospitalized multiple times for shortness of breath.
4. I live in a unit with about 80-85 people. We are housed in two man cells. There are eight cells in each tier and six tiers in my unit.
5. I have been under lock down at the jail since February 26, 2020. Initially, my unit (7N) was locked down because a staff member smuggled a gun into the unit. Then my new

unit (5N) was locked down like the rest of the jail because of COVID-19. At first, we were under 24/7 lock down. We weren't allowed out of our cells at all. On April 1, they started letting us out of our cells three times a week (Tu/W/F) for one hour. Now, we can leave our cell for one hour a day during the week and 30 minutes a day on the weekend. During the one hour we have to shower, call our family, email and clean. They let out one tier at a time for the hour free time.

6. In my unit, there are four phones but only two are currently working. There are also six computers but only five that we can use. Everyone on my unit shares the phones and computers. Every tier of sixteen people has one little shower. We all share this shower.
7. For a little over a month they have been providing a small bar of soap once a week. They also change our sheets once a week. But when we were first placed under lock down, we were not given soap or clean sheets for a month. There is still no hand sanitizer available.
8. Last week, inspectors visited the jail. The day before they came, the jail put up signs saying if we need anything to clean our cell, ask the officer. This was strange because we couldn't get any materials to clean our cells before.
9. Now, to clean our cells, if we hand over our ID to a guard in the unit, we we're given a spray bottle with cleaning solution but there is only one mop for the whole unit. We don't have paper towels to clean with, just toilet tissue. We have not been given gloves to clean our cells or as PPE to protect ourselves against the virus. We also aren't given enough time to clean. We can only clean during the hour out of our cell, which is also the only time we have to talk to family, email, and shower.

10. The jail started handing out masks a month ago. Initially, we were given what looked like surgical masks. For about two weeks we've had cloth masks made by the jail. The masks are washable- we have to wash them ourselves.
11. There are five orderlies in my unit who clean the common areas of the unit. They clean the phones and computers in between tier rotations in the common area.
12. The orderlies also bring us our food with the guards. They bring the food to our cells. The food during the first month of lockdown was cold, sometimes frozen. And some of the food had expired. The food has improved a little over the past two or so weeks. We now are given warm food for dinner. When the orderly or guard brings food, there is no social distancing. The food is handed over with less than six feet between us.
13. As for my health, I cough frequently but I have always had a persistent cough because of my asthma. I use my inhaler in the jail but I'm afraid to seek any medical attention. The guards say that if you get sick you'll go to the box. Unrelated to the virus, I have requested dental attention because of my dentures. They have been broken for nearly two months but they keep telling me there is nothing they can do right now.
14. My cellmate got sick in March. I can't remember the date. He was coughing at night and had a sore throat. He didn't feel good. He complained to guards for 4 or 5 days before they did anything. They kept telling him that he would go to the box if he was sick. They don't treat anyone unless they look like they are dying. Finally, on the fourth or fifth day they took my cellmate away and he never came back. I don't know what happened to him.

15. After they took my cellmate away, they didn't give me any cleaning supplies to disinfect my cell. They locked all of us on the tier inside of our cells. They took our temperature but did not test us for COVID-19.
16. I am afraid the guards will keep bringing the virus into the jail. They leave the jail and come back every day. They move between different units at the jail. I know this because one of the guards assigned to unit 11S performed count in my unit on Saturday (5/16/2020). I know at least one guard who has had the virus. This guard told me that she had to get herself tested because BOP would not test her. After she learned she had the virus, she stayed home for a while before returning to work. I don't know how long she stayed home. Another guard told me that they aren't being tested by BOP, they are just given temperature checks before entering the jail.

Executed on: May 18, 2020
New York, New York

As reported by Jorge Soto to
Zawadi Baharanyi

/s/ Zawadi Baharanyi

EXHIBIT 31

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF NICOLAS
SUCICH

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

1. My name is Nicolas Sucich and I have been housed at the Metropolitan Correctional Center (“MCC”) since November 2019. I was at FMC Devens previously. My Registration Number is 14574-104. I have been housed on 11-South unit.
2. I was originally on 5S because I’m a cadre and have a short sentence to complete. Then I was transferred to Otisville when they were looking for a gun in our building. When they were looking for the gun in MCC they broke my CPAP machine. Since March 12, 2020 when we have been back I have had to sleep without my CPAP machine and I wake up coughing and with chest pain. I have asked for another machine, but they say they can’t give it to me.
3. I am 50 years old.
4. I have the following medical conditions: diabetes, high blood pressure, asthma, and thyroid problems.

5. I have had to go to the second floor for medical a couple times in the last few weeks because I couldn't breathe and had extremely high blood pressure. They had to put me on oxygen. My asthma is terrible. I can barely breathe. They have increased my inhalers but it isn't helping. I am scared that something will happen to me. I am supposed to get out soon but I am scared something will happen before that. My blood pressure was 220/145 a couple days ago. Yesterday I spoke to the doctor and my sister had told me to ask him for a letter to support my request for compassionate release. He said he could not give me one.
6. There are 26 beds on my tier and there are 6 tiers on 11-S. We are housed in dormitory style rooms. There is only about 1.5 to 2 feet between beds. We share one toilet, one shower and one sink for 26 people. There are five phones to call home and then one phone to call the public defender. We share that phone with 150 people.
7. We had patient zero in my tier. He was gone for two weeks, at the hospital for a day and then locked up in SHU. Now he is back.
8. New people last joined my unit yesterday. A few days ago three other people came from the street.
9. I have not been tested for COVID-19. Nobody has really been tested. We have all asked for tests and for antibody tests to see how many people have had COVID-19 but they never take us out. They don't even check the temperatures every day. They never answer Corrlinks sick calls. The doctor himself has been accessible to me and when he sees me he helps me because he is concerned. But to other people he is not like that at all. But there is not much he can do. He just keeps telling me to talk to my sister to get out of here.

10. There is no emergency button in my unit that I know of. There were about five other people here who had COVID-19 who were taken off the unit. I think I had it but they never took me to the hospital or anything. I lost my taste and smell for several days and I was shivering and convulsing with fever. This was about six weeks ago. During those three days that I was extremely sick no doctors came to check on me. I have had a lot of trouble breathing since then.
11. We clean our own common areas ourselves about once per day but we are only allowed there an hour per day to use the phone and computers. We are locked in the dormitory all day.
12. They just put up signs this morning saying we can ask for cleaning supplies. There were two weeks before when we had no toilet paper at all.
13. I have not seen the computers getting cleaned. We usually wipe the phones ourselves before using them with some pink solution they say is disinfectant. Today when the inspector came, the CO came through and was spraying the bars of the dormitory with disinfectant. That had never happened before.
14. They just started giving us masks three weeks ago. The masks are made of paper. They recently gave us cloth masks but they are painful to wear. I still have some paper masks. They have never given us gloves.
15. I do not think my legal mail is going out. I have tried to contact the judge and my attorney.
16. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government

EXHIBIT 32

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF TYLER
TORO

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

1. My name is Tyler Toro and I have been housed at the Metropolitan Correctional Center (“MCC-NY”) since my arrest on February 15, 2018.
2. My Registration Number is 85382-054. I have been housed on units 5South and 11South and was also transferred from MCC to Otisville on March 3, 2020, and then back to MCC on March 12, 2020.
3. I am 29 years old. I suffer from psoriasis and receive medication for that condition. Other than this disease, I do not have any serious medical illnesses.
4. Although I was housed in the same unit with at least two individuals who contracted COVID-19 in the last month, I was never tested for it. I am not sure if I have COVID-19, but there were days in early April when I experienced pain and symptoms of COVID-19.

5. I am presently serving my sentence of 36 months imprisonment. I have been in custody since February 15, 2018 and am slated to be released on May 27, 2020. With the exception of a 9-day period (from March 3, 2020 until March 12, 2020) when I was shuttled from MCC-NY to Otisville and then back to MCC-NY without notice or good reason, I have been detained at the MCC. Prior to being moved to Otisville, I was housed in 5South. Upon my return from Otisville, I was housed in unit 11S. Unit 5South is a low risk cadre unit. Everyone on that unit has been sentenced and there are no pretrial detainees on that unit. The rule as I understand it is that sentenced inmates are to be kept separate from those with pending cases.
6. MCC-New York has been on lockdown for months now, and the first lock down was because of Jeffrey Epstein. The second lockdown began around February 27, 2020. That was because there was a gun loose in the MCC and then there was a lock down because of COVID-19.
7. On February 27, 2020 I was housed on 5 South in MCC-NY when we were placed on Emergency Intensive Lockdown by the BOP. We were not told why we were on lockdown and much later we learned the lockdown was due to a verified threat to the institution because a firearm had been brought into the MCC-NY by a member of the MCC-NY staff.
8. We were on lockdown every single day and night. There were new officers brought into the units and the regular MCC-NY guards seemed to have been replaced.
9. Eventually, I and others in my unit were put on a bus that took us to Otisville.
10. It was about 4:00 A.M. when we arrived at Otisville . Both buses arrived about the same time and we were kept on our respective buses as the count had not cleared at Otisville.

11. Upon our return to MCC-NY from Otisville, no one asked us if we were experiencing any illness or symptoms of COVID-19.
12. Upon my return to the MCC-NY, I was placed into another unit — Unit 11-South. I was then given to understand that the MCC-NY administrative staff had made 11South the unit for both the sentenced inmates and for pretrial detainees who were 55 years or older. This was a concern to the cadres on the unit all as pretrial detainees are taken to Court and held in cells with others who were coming to Court from MDC-Brooklyn and other city and state facilities.
13. Additionally, even though we had returned from another facility, we were housed with individuals most at risk of contracting COVID-19.
14. Several days later on March 23rd, I was informed that an inmate tested positive with COVID-19 in my living unit. The housing unit 11South houses up to 155 inmates, many of whom are pretrial detainees who go back and forth from Court and to proffer sessions at the prosecutor's office. The back and forth increases the risk of contamination especially to the cadres who do not leave the facility.
15. I cannot stress this enough: 11South has 155 inmates in an open dormitory. Each tier (I am on Tier 11) has about 25 other inmates who are a mix of cadre inmates and pre-trial detainees. There are 13 double bunks in the room — that makes for about 4 inmates just 3 feet apart. Each tier of 26 inmates has to share a single toilet and a single shower.
16. Several inmates have been removed from "11-South" for medical observation and isolation. Medical welfare checks solely consist of optional temperature checks.

17. On either March 22, 2020 or March 23, 2020, we were locked down. At this time there were new inmates being brought into the unit and one of the new people brought in was Damon Galarza whose registration number is 87982-054.
18. Mr. Galarza had been quarantined and they had given him a new cellmate even though he was quarantined.
19. On March 23, 2020, someone on the 11-south unit tested positive. One of the non-cadre inmates was taken to court and was exposed to an inmate from the MDC who had COVID-19.
20. These positives led us to yet another lockdown but this one was far worse. Because the unit now had individuals who tested positive for COVID-19, the BOP put up plexiglass on the doors to the unit so that no infected droplets would leave the unit. The BOP failed to recognize that the plexiglass also cut off all the air that was coming into the unit and lead to condensation.
21. It was impossible to breathe easily; there was moisture everywhere and the walls were wet with droplets. There was no air and we could not breathe. All of us on the unit complained and eventually in the first week of April they took the plexiglass off.
22. The lockdown was harsh for us as we did not have any hand sanitizer. We also did not have any masks until late April — early May. First we were given a mask that we were told had to last us a week. Then the BOP switched to cloth masks and told us to rewash them. But, they gave us no detergent with which to re-wash the masks.

23. Several weeks ago, for the first time, a washing machine was brought to the unit. Laundry is done once per week, but we do not know if our laundry is commingled with the laundry of others. We have only one washer dryer which is not sanitary at all. My unit has men who seem older and appear to be in various degrees of un-wellness. All of this makes me scared and anxious.
24. The one washable cloth mask is all I have; I have not received another mask. I try to wear it as much as possible. I have never been given gloves and the only hand sanitizer is near the elevators and it is only for use by the officers. I have not seen any other inmate wearing gloves.
25. I have seen staff members coughing and sneezing. They seem to be reluctant to approach us. I believe that staff members work in more than one unit.
26. The unit has three phones, and five e-mail terminals, and there is one shower per tier, and we share the use of each of these facilities. The showers are not clean and we are constantly worried that we will infect each other as no one knows if they have the virus.
27. No cleaning supplies are provided to clean the phones or the e-mail terminals between each use. We have no wipes or disinfectant for between uses. I do not have anything but two travel sized pieces of soap which I cannot use to clean the phones.
28. Because we hardly ever get to use the phone during this lockdown, the fight for the phone is brutal and the line is always long. It is hard to socially distance in such tight quarters as there are only three phones and five e-mail terminals that are used by everyone in the unit.

29. I was especially desperate for use of the phone as I was trying to get to a halfway house or home confinement placement as I am almost done with my time and was set to be released to home confinement on May 20, 2020.
30. Around early April, I was feeling unwell. I had symptoms (cold, chills and pain) and relayed to the medical staff my concern at feeling unwell. In return, I was repeatedly told by medical staff to take over the counter medicine that could be purchased from the commissary except that over the counter medicine has not been available for purchase via commissary in quite some time. I expressed to my mother (Carmen Melendez) my concern that I was feeling sick and I think she emailed MCC-NY about her concern for my health. As far as I am aware, MCC-NY did not respond to her email.
31. Although the correctional staff are instructed to wear PPE gear when entering our living spaces, there have been instances when staff have not worn gloves or face masks when on our tier.
32. Our male inmate kitchen staff was removed from duty on April 2nd due to an individual testing positive for COVID- 19. The female inmate population replaced the male inmate kitchen staff, but was shortly removed after many reportedly became sick.
33. I have yet to see our unit team here to address issues or concerns during this crisis.
34. For one reason or another I have been in lock down for what seems like forever. I have been locked down because of COVID-19 since around March 13, 2020. This is my third lockdown and it seems to all of us that lockdown is the norm.
35. I am doing my best to keep it together as I am almost out the door and am looking forward to not living like an animal in a cage.

36. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. This consent is valid throughout the term of the class action lawsuit. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 22, 2020
New York, New York

As reported by Tyler Toro to Gerald
DiCharia & Sabrina Shroff

/s/ Sabrina Shroff

Sabrina Shroff
Counsel to Mr. Toro

EXHIBIT 33

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF WILBERT
TURNER

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

1. My name is Wilbert Turner and I have been housed at the Metropolitan Correctional Center (“MCC”) since April 12, 2018. My Registration Number is 25352-083. I have been housed on unit 11S since February 25, 2020. I was previously on 9N. I believe I was moved as punishment because of a dispute with a staff member who thought I was disrespecting him by standing up too slowly when asked to do so. I tried to explain that because of my medical issues I cannot stand up too quickly, but it didn’t matter.
2. I am 58 years old.
3. I have pacemaker and I was diagnosed with bladder cancer on December 14, 2017. I also have asthma, for which I take an albuterol inhaler, and scleroderma. I have lost 21 pounds in the last two months.

4. There are roughly 20 people on my unit currently but there have been times when it was as many as 26. We are housed in an open dorm. We sleep in bunk beds no more than an arm's length apart. I have 5 people sleeping less than 6 feet apart from me. My entire dorm cannot be more than 30 square feet. Two new people joined my unit last week.
5. My dorm should be condemned. There is only one toilet in a bathroom filled with mold and it is overrun with mice, roaches and water bugs.
6. On March 27, 2020 Robert Russo was removed from my tier because he couldn't breathe. He was later diagnosed with COVID-19 and eventually taken to the hospital. They didn't give us anything to clean the tier with after he left. Everybody in Tier 9 was exposed to him. When Russo got back from the hospital, they quarantined him and then sent him back to the unit. He was never tested again.
7. Beginning at the end of March into early April, I believe I had the coronavirus. I had no sense of smell or taste and intense aches and pains. On April 1st or 2nd, I had an elevated temperature. I was given acetaminophen, but nothing else was done. I sent a request to the warden to be tested, but haven't heard anything else about it.
8. Around that same time, from about March 27th - April 4th, 5 or 6 people were extremely sick in my tier, including Russo's bunk. They were drowsy and very weak. They just coughed and slept for days.
9. On April 29, I had serious shortness of breath. I asked an officer to call medical. RN Lopes came by on May 2 and told me that "he wasn't buying what I was selling." The following Monday, I spoke to Warden and eventually got to see the medical staff. They took x rays and saw that my lungs were filled with fluid. They told me I was minutes away from a heart attack. They gave me medicine to force urination.

10. Generally, if you tell officers about a problem you're never sure they actually call. It takes days to get seen when you make a request, if you ever do get seen at all. Making medical requests is a waste of time, even for someone in my condition.
11. About three weeks ago I noticed blood in my urine. I put it a request to be seen by the medical staff. I was told on May 5, 2020 that I would get an appointment. I still haven't been seen. The doctors don't have time to take all the sick calls.
12. I have not heard about anybody being getting tested aside from Russo and I believe he was tested at the hospital.
13. They were doing regular temperature checks for about 2 weeks at the end of March into early April. They are not doing that anymore. They never asked us about any other symptoms. I also think their thermometer may have been broken because everyone's temperature was 97.3.
14. Orderlies clean the common areas. In the dorm, there is no space to clean when people are awake, so it has to be cleaned in the middle of the night.
15. Toilet paper is scarce. We are supposed to get 2 rolls every week but that doesn't always happen. They are not consistent with giving out toilet paper.
16. They do give us a good amount of soap. Recently we have been able to get disinfectant spray and soap from the unit manager also. Cleaning supplies have been given out more often recently, but that was not the case for most of February, March and into April.
17. The MCC staff put up a sign relating to sanitation supplies on Monday or Tuesday of the week of the inspection.
18. I have never been given gloves. Those are only for the staff from what I can tell.

19. We started getting masks about 6 weeks ago. They gave us 2 cloth masks about 2 weeks ago and told us we are supposed to keep them and wash them. Before we were given disposable masks once a week.
20. Laundry is done once a week in a communal laundry load.
21. There is no possibility of social distancing in a dorm.
22. From what I can tell the staff are wearing masks fairly consistently. I do believe that staff work in more than unit.
23. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. This consent is valid throughout the term of the class action lawsuit. I have been allowed to ask questions about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
New York, New York

As reported by Wilbert Turner to
Timothy C. Sprague of Covington &
Burling LLP



EXHIBIT 34

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBERT
GALVEZ-CHIMBO, SHARON HATCHER,
JONATHAN MEDINA, and JAMES WOODSON,
individually and on behalf of all others similarly
situated,

Petitioners,

-v.-

MARTI LICON-VITALE, in her official capacity
as Warden of the Metropolitan Correctional Center,

Respondent.

No. 20 Civ. 3315

DECLARATION OF GUILLERMO
ZEGARRA-MARTINEZ

GUILLERMO ZEGARRA-MARTINEZ declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Guillermo Zegarra-Martinez and I have been housed at the Metropolitan Correctional Center (“MCC”) since I was brought to the United States for prosecution in January of 2020. My Registration Number is 76401-054. I have been housed on units Seven South and Seven North at the MCC.
2. I was born on January 6, 1984; I am 37 years old and suffer from migraines.
3. I do not have any serious medical illnesses, but I am quite certain that I contracted CoVid19 last month, though I was never tested for it.
4. Our unit has been on lockdown for a very long time. The first lockdown was when Jeffrey Epstein died. This lock down lasted for some weeks. The second lockdown was when the MCC officials feared there was a gun in the jail and we were locked down for

weeks while the guards tried to find the gun. The third lockdown is the one that is ongoing now — when the jails started to get CoVID19.

5. There are around 96 people on my unit. The unit is broken up into six tiers, with roughly 18 people on each tier. We are housed in double cells.
6. The unit on which I am held is not stable as people that I have not seen before have come to our unit during the lockdown. I can't say for sure, as the unit has been in lockdown for what seems like an eternity, but when we are let out of our cells, I see faces I have not seen before. But because we are let out of our double cells for no more than 50 minutes at a time, I don't know for sure how many new people have joined the unit during the lockdown.
7. The unit has three phones, and five e-mail terminals, and there is one shower per tier, and we share the use of each of these facilities.
8. I am almost certain that I had coronavirus and I am fully certain that my cellmate, Victor Coro-Mones, had the virus. I was very worried when my cellmate Victor began coughing and looking very sick. He was cold and had the worst constipation. I tried to get the guard to help him, but no one paid any attention to either of us.
9. Around April 5, 2020, I had a very bad headache and was feeling in a way that I do not usually feel. I asked the officers for help; I wanted medicine for my headache which I thought was a result of the migraines from which I suffer. Then, I started to feel several symptoms that I generally do not have, and they scared me. I felt cold to the point where I was shivering; a cough; loss of my senses of smell and taste; and no desire to eat anything. I was also constipated.

10. It was almost impossible for me to get out of bed. I could not sleep as I was cold and my cellmate kept coughing. Both my cellmate and I repeatedly asked the guards or anyone who came by to get me medical attention, but no one came. My cellmate was sick with cold chills, and I heard him ask for help and medical attention over and over and over again, with no help given.
11. Eventually, one of the guards came by and, when my cellmate's coughing was out of control, removed him from the cell we had shared. At that time, I did not know where they took my cellmate and they would not tell me what was wrong with him; but I knew he had to have had CoVID19.
12. After sometime had passed, the guard came back to my cell. He had with him a pair of gloves which he gave to me. He told me to put on the gloves and then instructed me to pack up all of my cellmate's belongings. I did not want to do that as I was quite certain that I was being asked to touch the belongings of a person who had contracted CoVID19. But I had no choice and had to pack up my cellmate's belongings, as instructed by the guard. The guard would not confirm my suspicion that Victor had CoVID19.
13. I was given another cellmate, Mauricio Hernandez, who also did not seem to be feeling well and eventually needed to get medical attention. I believe Mauricio Hernandez also had CoVID19.
14. Eventually Victor returned to my cell. He told me he had had CoVID19.
15. Even though I had two cellmates with CoVID19, I personally did not get tested or attended to by any medical professional or given any medication (other than my headache medicine). I did not even get an extra blanket for when I had the chills. The only thing

that was done was the taking of my temperature which was always recorded as being at 97.5.

16. Each time my temperature was taken it was recorded as being the same: 97.5.

Coincidentally, everyone on our unit seemed to have the same recorded temperature. The person who took my temperature did not address any of my concerns. When I expressed my worry at being housed with a person who seemed very sick, it was ignored. No one told me if I had shared a cell with a person who had contracted COVID19.

17. I was never tested for CoVID19. No one seemed to get tested, not even my cellmate who was extremely ill.

18. My unit had men of all ages in various degrees of un-wellness. Many were coughing and complaining of how they were feeling, and the level of anxiety was palpable and ever increasing.

19. Several weeks ago, I was given one non-washable mask, and told that I would get a new one every week but no earlier. These masks did not last long and it was very hard to keep them clean. I understand that other inmates also were given one non-washable mask a week.

20. Recently, we received washable cloth masks, and since then I have not received another mask. The cloth mask is hard to wash and the cloth shrinks. I try to wear my mask when I go out of my cell which is for 50 minutes three times a week.

21. I have been given no other protective gear. The only time I was given gloves was when I was told to pack up the Victor's belongings as he was removed from my cell for being very ill. I have not seen any other inmate wearing gloves.

22. I have seen staff members coughing and sneezing. They seem equally scared and are not keen on answering cop-outs or other requests for help. I believe that staff members work in more than one unit.
23. Orderlies from our unit try to clean the common areas. The phones and computers are in high demand. The lockdown is long, and the opportunity to speak to our lawyers and family is sporadic. When we are let out (now it is 18 people at a time), we have 50 minutes to shower, make phone calls and check emails. All 18 of us have to use the 50 minutes wisely. Within those 50 minutes we have to shower, send e-mail, use the phones. There is always a mad rush for all three. The shower on my tier has had no hot water and, for a while, my tier was being woken up at 1:00 a.m for the cold shower call.
24. The guards would wake us up and tell us to gather in the middle of the tier. We were instructed to put our hands on our heads and wait in the middle until everyone was checked. Then, we were told to shower. The water was freezing cold.
25. There are three phones and five e-mail terminals that are used by everyone in the unit. No cleaning supplies are provided to clean the phones or the e-mail terminals between each use. We have no wipes or disinfectant for between uses. When I use the phone, I try to cover it with something but then I have to find a way to wash the covering. I do not have anything but two pieces of soap.
26. Several weeks ago, for the first time, a washing machine was brought to the unit. Laundry is done once per week, but we do not know if our laundry is commingled with the laundry of others.
27. There are a new set of guards now and it seems they have been told to be nicer to us. The change is obvious, but we are still not getting any medical help.

28. I have been locked down because of CoVID19 since around March 13, 2020. This is my third lockdown and it seems to me that I am almost always in lockdown even though I have done nothing wrong.
29. For months now I have lived in a box; in the box there are two beds, a toilet and two lockers. For 24 hours a day, four days a week I am with my cellmate who ended up sick with CoVID19. I was not able to step out of our cell even when my cellmate was very sick and coughing all over the cell which as I said is quite small.
30. Although I think I had these strange headache symptoms first, my cellmate's condition became very bad very fast, and I lived in constant fear that one or both of us would get very ill and die. I was unable to avoid my cellmate or his coughing, and soon my condition worsened and I too became more ill.
31. The nutrition being provided to us is worthy of mention in what it lacks. We have cold food boxes. We often are given baloney sandwiches for dinner.
32. I am doing my best to keep well and control my stress level. Being locked down for so long is extremely stressful. When they let us out (for around 50 minutes a day, three days a week), I feel like an animal being let out of a cage.
33. I consent to my BOP medical records being provided by the BOP to Covington & Burling, the law firm suing the MCC in this class action. I would like my medical records to be kept under seal, but they may be shared with the judge and the government in support of my statements about my medical condition and the medical care at the MCC. This consent is valid throughout the term of the class action lawsuit. I understand what the lawsuit is about, how my medical records will be used, and that I have the right to refuse to give access to my medical records. I have been allowed to ask questions

about this, and my questions have been answered. I have been read this consent language. I have been told that I will be mailed a copy of this declaration, including my consent to the release of my medical records.

Executed on: May 18, 2020
Brooklyn, New York

As reported by Guillermo Zegarra-
Martinez to Sabrina Shroff

/s/ Sabrina Shroff

Sabrina Shroff
Counsel to Mr. Zegarra-Martinez