UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

CLIFTON BELTON, JR., JERRY BRADLEY, CEDRIC FRANKLIN, CHRISTOPHER ROGERS, JOSEPH WILLIAMS, WILLIE SHEPHERD, DEVONTE STEWART, CEDRIC SPEARS, DEMOND HARRIS, and FORREST HARDY, individually and on behalf of all others similarly situated, Plaintiffs, v. SHERIFF SID GAUTREAUX, in his official capacity as Sheriff of East Baton Rouge; LT. COL. DENNIS GRIMES, in his official capacity as Warden of the East Baton Rouge Parish Prison; CITY OF BATON ROUGE/PARISH OF EAST BATON ROUGE, Defendants.	Case No. 3:20-cv-000278-BAJ-SDJ

PLAINTIFFS' BRIEF IN SUPPORT
OF MOTION FOR CLASS CERTIFICATION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

CASES:

CONSTITUTIONAL PROVISIONS:

RULES:

OTHER AUTHORITIES:

INTRODUCTION

This case is about Defendants' failure to protect the people detained under their custody in the East Baton Rouge Parish Prison (the "Jail") from the novel coronavirus and its resulting infection, COVID-19. Defendants have failed to respond adequately to the urgent threat posed to people confined in the Jail during this growing and lethal pandemic, making it impossible for the detained class members to observe the precautionary steps necessary to keep themselves safe, such as social distancing, increased personal hygiene, sanitizing one's environment, access to testing and other essential healthcare treatment, and wearing personal protective equipment.

As a result of Defendants' failure to protect the detained class members from these known risks, detainees in the Jail have been exposed and bear repeated increased exposure to a highly fatal infectious illness in violation of their constitutional rights under the Eighth and Fourteenth Amendments. At least two detainees have already been hospitalized for COVID-19, and research suggests the number of cases inside the Jail is exponentially increasing. *See* Compl. ¶¶ 78, 101. Plaintiffs challenge these unconstitutional conditions and now move for class certification under Federal Rules of Civil Procedure 23(a) and 23(b)(2). Named Plaintiffs also move for appointment of the undersigned as class counsel pursuant to Rule 23(g).

Class certification is warranted because Plaintiffs seek declaratory and injunctive relief to address the unconstitutional conditions that prevail throughout the Jail. These conditions pose similar health risks to Plaintiffs and all putative class members by exposing them (as well as jail staff and the public at large) to a serious risk of infection and, as a result, serious and potentially lasting bodily harm—up to and including death. Resolving Plaintiffs' claims requires answering the same common questions of law and fact by finding that the conditions in the Jail violate the

Eighth and Fourteenth Amendments to the U.S. Constitution.[1] A declaratory judgment and injunction for the entire class will address these issues for all class members. The size and nature of the Jail means that there are far too many class members, and the class and subclasses are too fluid, to efficiently resolve these questions individually.

The Named Plaintiffs and their counsel are dedicated to vindicating the constitutional rights of the proposed class members, even if the Named Plaintiffs' cases are resolved through their release or otherwise. Counsel will provide quality representation for the interests of proposed class members—just as they have for other similar classes of incarcerated people around the nation.

BACKGROUND AND FACTS

I. All Plaintiffs and Putative Class Members Are Being Detained in Extraordinarily Unsafe Conditions that Cannot Protect Them From this Global Pandemic.[2]

The Jail is a ticking time bomb—the conditions inside the Jail create a breeding ground for a mass outbreak of the COVID-19 virus.

The Jail is designed to house over 1500 detainees, all of whom—members of both the Pre-Trial and Post-Conviction Subclasses—are crammed in a tight, dilapidated space.[3] Within this space, prisoners not only sleep, but work, eat, exercise, and perform other functions of daily life alongside each other. As the Centers for Disease Control and Prevention has recognized, "these

[1] As explained in more detail in Plaintiffs' Amended Class Action Complaint (the "Complaint" or "Compl.") and Brief in Support of Emergency Motion for Temporary Restraining Order ("Temporary Restraining Order Brief" or "TRO Br."), the constitutional standard with respect to the Pre-trial Subclass is governed by the Fourteenth Amendment rather than the Eighth Amendment. Accordingly, that subclass need only prove that the medical need is objectively serious and the Prison's response inadequate. *See Tennyson v. Villarreal*, 801 Fed. App'x 295, 295 (5th Cir. 2020). In addition, it is clear that "multiple policies interacted to cause constitutionally inadequate confinement conditions" for pretrial detainees at the Jail, making relief appropriate. *Sanchez v. Young Cty., Tex.*, 956 F.3d 785, 796 (5th Cir. 2020).

[2] Additional facts are provided in more detail in Plaintiffs' brief in support of their motion for temporary restraining order. TRO Br. at 3-24.

[3] *See* Ex. 1 (Photo of Q9, one of the Jail's dorms pre-pandemic).

components present[ ] unique challenges for control of COVID-19 transmission."[4] By its nature, the Jail presents numerous opportunities for the virus to spread exponentially amongst the incarcerated or detained class members and other individuals who work in or visit the Jail. Even prior to the COVID-19 crisis, there were complaints that the East Baton Rouge Parish Prison, which was built in 1965, was "outdated" and provided "substandard conditions."[5] Now, in the face of an unprecedented health crisis, Defendants have failed to implement proper screening, testing, or quarantine processes to adequately protect the people detained in the Jail.

Medically-necessary social distancing is impossible inside the Jail. The detainees sleep on bunkbeds in cells or in dormitory-style rooms, forcing class members to sleep less than two feet apart from each other. Rogers Decl. ¶ 49[6]; Hardy Decl. ¶ 6. During roll call and shift change, which occurs twice daily and lasts up to an hour each time, detainees are crammed into common areas and lined-up close together. Rogers Decl. ¶¶ 47-48; Bradley Decl. ¶ 4. The same is true for pill call when the detainees must line up to receive their required prescriptions from the nurse. And the toilets, sinks, and shower heads are so close together that detainees can easily touch the person next to them. Hardy Decl. ¶ 6 ("If two guys are using the toilets next to each other, their legs could touch."). Detainees, including specifically the Medically Vulnerable Subclass, therefore remain in close contact with other class members at all times during their confinement in the jail.

Worse yet, jail staff have largely ignored the spread of COVID-19 within the jail. Jail staff

---

[4] Ex. 3 to Compl., Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf.

[5] Lea Skene, *Report: Inmate Deaths in East Baton Rouge Higher Than National Average; Jail Fails to Provide Adequate Protection*, The Advocate (Aug. 15, 2018), https://www.theadvocate.com/baton_rouge/news/crime_police/article_96faf196-a02e-11e8-942c-33faf38f0e30.html.

[6] Unless otherwise cited, cites to declarations refer to those filed with the Memorandum in Support of Plaintiffs' Emergency Motion for Temporary Restraining Order.

provide detainees with only small, hotel-sized bars of soap that is insufficient for the routine handwashing and cleaning necessary to mitigate the spread of COVID-19; detainees are forced to pay for additional hygiene or personal sanitation supplies. *See* Harris Decl. ¶ 23. To clean their spaces, detainees must ask jail staff for a mop and water—there is no other way for detainees to keep their cells clean. *See, e.g.*, Rogers Decl. ¶ 25. Jail staff do not provide disinfectants or towels to detainees to clean their cells, and on occasion have assaulted detainees when they question this. Rogers Decl. ¶¶ 26, 44.

Given the lack of sanitation supplies provided inside the Jail, the facilities are insufficiently and irregularly cleaned. Detainees are forced to share toilets, sinks, showers, and phones without disinfection between each use. Rogers Decl. ¶¶ 32, 58; Hardy Decl. ¶¶ 17-18; Shepherd Decl. ¶ 17. Many detainees place a sock over their hand when using the phone to avoid contamination while talking to their loved ones. Hardy Decl. ¶ 17; Shepherd Decl. ¶ 16. Detainees estimate that the showers are cleaned at best once a day, and sometimes as little as once a week, which is woefully insufficient during normal times, and especially so during a global pandemic. *See* Hardy Decl. ¶ 18; Williams Decl. ¶ 23; Shepherd Decl. ¶ 27. The shower mats have mold on them and the showers are rusted. Rogers Decl. ¶¶ 27, 58.

The detainees are not provided with sufficient personal protective equipment. According to reports, face masks were inconsistently provided and are not regularly replaced. *See, e.g.*, Harris Decl. ¶ 16; Hardy Decl. ¶ 20. Some guards wear masks and gloves while they deliver the food, and others do not. Hardy Decl. ¶ 21; Rogers Decl. ¶ 35. None of the detainees have been provided gloves because gloves are considered contraband. Rogers Decl. ¶ 12; Shepherd Decl. ¶ 19. Detainees even report that those who test negative are in contact with those who test positive for several days. *See* Bradley Decl. ¶ 18; Shepherd Decl. ¶ 20. Even worse, detainees who report

symptoms are ignored and left on the line because "no one had the virus on [their] side of the prison." Rogers Decl. ¶ 8. *See id.* ¶¶ 7-10 (Christopher Rogers remained on the F5 line for almost a week after reporting symptoms. After filing a medical request, he tested positive and was moved to B3); *see also* Hardy Decl. ¶ 13; Harris Decl. ¶ 6.

Jail staff do not promptly nor properly test for COVID-19 symptoms. *See, e.g.*, Rogers Decl. ¶ 8; Hardy Decl. ¶¶ 10-12; Harris Decl. ¶ 6. Universal temperature checks ceased in early May and only detainees who exhibit symptoms receive a temperature check or a COVID-19 test. Shepherd Decl. ¶ 24; Hardy Decl. ¶ 10. Jail staff also routinely ignore and dismiss sick inmates' requests for medical attention—and even act as a barrier between detainees and healthcare personnel. *See* Shepherd Decl. ¶ 10 ("First, a Lieutenant would come back before the medical staff to see if it was a real problem. Then they would call medical staff to come back"); Rogers Decl. ¶ 60. Detainees are not tested until they are "really sick." Hardy Decl. ¶ 11.

Detainees who test positive for COVID-19 are moved to recently re-opened cellblocks that shut down in 2018 because they were deemed unsafe. *See* Harris Decl. ¶ 8; Rogers Decl. ¶ 13; Bradley Decl. ¶ 9. Sick detainees are held in solitary confinement and are on lockdown. *See* Williams Decl. ¶¶ 6-7. Yet despite this, the cells are so close together that detainees pass food and other items to each other by reaching through the bars, potentially spreading the virus. Williams Decl. ¶ 9; Rogers Decl. ¶ 17; Harris Decl. ¶ 9.

Medical treatment at the Jail has been inconsistent and inadequate for years and COVID-19 has only exacerbated existing issues. Compl. ¶¶ 4, 5, 72, 101-08. Nurses are supposed to visit this line twice a day but sometimes do not visit at all during the day, leaving untrained jail staff to attend to sick detainees. *See, e.g.*, Rogers ¶ 37. Furthermore, treatment only consists of sinus pills, Tylenol and a cup of water. Rogers Decl. ¶¶ 37-38.

Medically vulnerable detainees face significant risks at the Jail. Willie Shepherd has high blood pressure and a bleeding ulcer. Shepherd Decl. ¶ 4. Around April 12, 2020, he reported that he had a headache and body aches. *Id.* ¶ 7. Two days later, a Jail nurse administered a COVID-19 test to Shepherd, which nearly a week later returned a positive result. *Id.* For days, Shepherd remained in the Q3 line with 45 other detainees while he exhibited symptoms of COVID-19. *Id.* ¶¶ 5-7. Shepherd was transferred to the B3 Block, and was placed in a cell with three other detainees, one of whom had tested *negative* for COVID-19. *Id.* ¶ 8. Shepherd describes the medical care he received in the B3 Block:

> We didn't get any real medical care on B3. Medical staff came back twice a day for pill calls, when they would give us our prescription medications. I got medications for my high blood pressure at pill call. But all they gave us for coronavirus was Tylenol. After about a week and a half on B3, the nurses also began giving us vitamins. That was all we got. We didn't even get Gatorade, and we barely got any water. I don't know why they moved us if they weren't going to do anything for us but give us Tylenol and vitamins.

Id. at 9.

The situation, however, is not just dire for those who are medically vulnerable—all detainees are at risk. Mr. Joseph Williams transferred to lockdown after recording a temperature of approximately 100 degrees on April 24, 2020 and testing positive for COVID-19 on a test administered the next day. Williams Decl. ¶¶ 5, 7, 13. He shares his cell with two other detainees, but it is impossible for the men to stay six feet apart because of the size of the cell. *Id.* ¶ 10. Several days after Williams' positive test, he was given Tylenol to manage the symptoms. Other detainees around him were not as fortunate; Williams describes how another detainee beat on the door of his cell for 15-20 minutes to get medical attention for one of the other detainees, until the guards finally stopped ignoring him. *Id.* ¶ 16. And Williams describes his own experience when he suffered chest and stomach pains, including vomiting:

> I tried to get medical care by asking another guy to beat on the door. He beat on

> the door for r 20-30 minutes, but no one responded. I had to call my aunt to get some help. She and several other members of my family called . . . to try to get me some medical attention. Guards finally came on the line to check on me, and I told them to call medical. They kept asking me why, but one of the guards finally called medical. The nurse was mad at me when she got to the line. She just checked my temperature and blood pressure, then gave me Tylenol and another pill for three days. I don't know what that pill was, and I didn't have a temperature. The nurse left immediately after.

Id. ¶ 17.

Detainees are not able to protect themselves because the jail staff have done little to educate the detainees about the pandemic; detainees are instead forced to rely on the news or information from loved ones—when they can access it—for details about the virus and how to best protect themselves. Although some signs about keeping clean and not touching their faces have been posted, jail staff have not explained the symptoms or warning signs of the virus to detainees. Spears Decl. ¶ 29; Hardy Decl. ¶ 23 ("The guards don't give us any information or updates about the coronavirus, and they didn't tell us about washing our hands."). As detainee Cedric Spears explains:

> The guards don't tell us anything about the coronavirus or how to take care of ourselves during the pandemic. We haven't seen the Warden since the beginning of the pandemic, and no ranking officer comes back to tell us anything. The guards mostly just try to get off the line quickly. They act like they're in danger being around us, but they're the ones who go into the community and get exposed to the virus. We might have had a sign up with information about coronavirus at one point, but I don't think I saw signs on each of the lines I was on. We try to get our information about the coronavirus when we watch the news—there are two 32-inch tvs in the day room.

Spears Decl. ¶¶ 29-30. But those detainees who are on lockdown are prohibited from going to the day room or watching television, leaving them with no "information about the coronavirus, how to protect ourselves, or what was going on in the world." Rogers Decl. ¶ 33; *see also* Williams Decl. ¶ 29. Demond Harris summarizes the feelings of the detainees:

> I think the jail staff is trying to create an atmosphere of fear around lockdown so that guys won't report symptoms to avoid going to lockdown. Why else would

> they take all of our privileges away? They took away almost all of our privileges on lockdown, including commissary, access to hygiene products, mail, open access to phones, and tvs. If people on the line heard about that, they wouldn't want to tell the nurse they were sick and they would be scared to go to lockdown. So they kept their symptoms quiet, and the jail staff let the virus spread throughout the jail. I think this is how the jail has kept their positive-case count down.

Harris Decl. ¶ 32.

Detainees are at a significant risk of contracting and spreading COVID-19 because of the deplorable conditions at the jail. Defendants created and have now perpetuated an environment in which the named Plaintiffs and all class members face grave risks to their health.

II. Plaintiffs Seek Class-Wide Prospective Relief.

The Jail's policies and practices violate the rights of all class members to be free from cruel and unusual punishment and the resulting rights, once detained, to be held in a facility that does not present a substantial risk of serious harm. *See DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989) ("[W]hen the State . . . restrains an individual's liberty . . . [and] fails to provide for his basic human needs—*e.g.*, food, clothing, shelter, medical care, and reasonable safety—it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.").

Plaintiffs seek class-wide declaratory and injunctive relief holding unconstitutional the conditions under which the entire class is detained and ordering that those conditions be immediately and drastically improved. In the case of the Medically Vulnerable Subclass, given the immediate and severe health risks posed by the Jail's conditions—conditions that cannot be abated rapidly or starkly enough to protect these high-risk individuals—Plaintiffs seek subclass-wide relief in the form of immediate release.

ARGUMENT

Under Rule 23 of the Federal Rules of Civil Procedure, the party seeking class certification must show that:

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the named parties are typical of the claims or defenses of the class; and

(4) the named parties will fairly and adequately protect the interest of the class.

Fed. R. Civ. P. 23(a). The class must also satisfy the requirements of Rule 23(b)(2), that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." *See infra* Section V.

The Court must perform a "rigorous analysis" to determine whether to certify a class. *Wal-Mart v. Dukes*, 564 U.S. 338, 351 (2011). However, certification is not a "dress rehearsal for the merits." *In re Deepwater Horizon*, 739 F.3d 790, 811 (5th Cir. 2014) (citing *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 851-52 (6th Cir. 2013)). At the certification stage, Plaintiffs' evidence need only "demonstrate that a particular contention is common, but not that it is correct." *In re Deepwater Horizon*, 739 at 811; *Lewis v. Cain*, 324 F.R.D. 159, 167 (M.D. La. 2018) (noting that Rule 23 does not require Plaintiffs to show that the merits of questions common to the class will be decided in favor of the class).

Class certification is particularly favored when, as here, the Named Plaintiffs assert civil rights claims that are of a fleeting or transitory nature, such that mootness concerns would make it difficult or impossible for individuals to litigate the issues outside of the class context. *See Johnson v. City of Opelousas*, 658 F.2d 1065, 1070 (5th Cir. 1981) ("[W]e believe that the substantial risk

of mootness presented by the facts of this dispute was sufficient to create a need for certification."); *see also Pederson v. La. State Univ.*, 213 F.3d 858, 867 n.8 (5th Cir. 2000) ("the substantial risk of mootness here created a necessity for class certification in this case"). The Supreme Court in the last decade has reaffirmed that claims regarding the constitutionality of hazardous prison conditions are amenable to class treatment. In *Brown v. Plata*, the Court affirmed a grant of injunctive relief to a class of tens of thousands of prisoners across multiple prisons in California who alleged "systemwide deficiencies in the provision of medical and mental health care that, taken as a whole, subject sick and mentally ill prisoners in California to a substantial risk of serious harm and cause the delivery of care in the prison to fall below the evolving standards of decency that mark the progress of a maturing society." 563 U.S. 493, 551 (2011) (internal quotation marks and citation omitted).[7]

I. The Proposed Class Is So Numerous That Joinder of All Proposed Class Members Is Impracticable.

Plaintiffs' proposed class is sufficiently numerous to make joinder impracticable. *See* Fed. R. Civ. P. 23(a)(1). The essence of the numerosity analysis is "whether joinder of all members is practicable in view of the numerosity of the class and all other relevant factors." *Zeidman v. J. Ray McDermott & Co.*, 651 F.2d 1030, 1038 (5th Cir. 1981).

Although there is no set number of people needed to meet the numerosity requirement, a class of more than 40 is presumptively adequate. *Mullen v. Treasure Chest Casino, LLC*, 186 F.3d 620, 624 (5th Cir. 1999) (citing 1 Herbert B. Newberg et al., *Newberg on Class Actions* § 3.05, at

[7] *See also, e.g.*, *M.D. v. Perry*, 294 F.R.D. 7, 46-47 (S.D. Tex. 2013) (Certifying Rule 23(b)(2) class based on an allegation that Defendants inflicted "a unified harm to class members—an unreasonable risk of harm due to ineffective monitoring and planning because caseworkers are overburdened."); *Dockery v. Fischer*, 253 F. Supp. 3d 832, 851-57 (S.D. Miss. 2015) (certifying class action regarding medical treatment and housing for prisoners in East Mississippi Correctional Facility); *Jones v. Gusman*, 296 F.R.D. 416, 464-67 (E.D. La. 2013) (certifying settlement class alleging deficiencies in parish jail health care).

3–25 (3d ed. 1992) for the proposition that a class of more than forty members "should raise a presumption that joinder is impracticable").

"Rule 23 does not provide a clear formula for determining whether the numerosity requirement has been met," *In re Chinese-Manufactured Drywall Prods. Liab. Litig.*, 424 F. Supp. 3d 456, 482 (E.D. La. 2020), and "[n]o specific number of claimants is required to sustain a class action . . . " *Richard v. Flowers Foods, Inc.*, No. 6:15-2557, 2018 WL 5305377, at *4 (W.D. La. Aug. 13, 2018). Rather, Plaintiffs only need provide "information from which the Court can reasonably conclude that the Class is so numerous that joinder is impracticable." *Rougier v. Applied Optoelectronics, Inc.*, No. 4:17-cv-02399, 2019 WL 6111303, at *5 (S.D. Tex. Nov. 13, 2019). This does not need to be an exact figure; "a good-faith estimate should be sufficient when the number of class members is not readily ascertainable." *In re Chinese-Manufactured Drywall*, 424 F. Supp. 3d at 482.

The numerosity inquiry does not end with the quantity of putative class members; other factors also determine whether joinder is impractical. *Pederson*, 213 F.3d 858 at 868-69. In the prison context, where the population is "constantly in flux," "the fact that the class includes unknown future members" "weighs in favor of certification." *See Jones*, 296 F.R.D. at 465 (citing *Pederson*, 213 F.3d at 868); *J.D. v. Nagin*, 255 F.R.D. 406, 414 (E.D. La. 2009) (finding joinder impractical in light of shifting prison populations and "[t]he mere fact that the proposed class contains future members."). The Court should also consider the "judicial economy arising from the avoidance of a multiplicity of actions." 1 William B. Rubenstein et al., *Newberg on Class Actions* § 3:12 (5th ed. updated 2019).

The proposed class easily meets the Rule 23(a)(1) numerosity requirement. According to recent reporting, the jail population currently stands at approximately 1235 human beings. And

approximately 86% of all people incarcerated in Louisiana's prisons are pre-trial detainees, meaning that the Pre-Trial Subclass and the Post-Conviction Subclass each constitute approximately half of the class as whole.

As to the Medically Vulnerable Subclass, although its exact size cannot be known by Plaintiffs in advance, demographic data of prison populations more generally confirms that well over 30% of detained individuals typically suffer from conditions that render them medically vulnerable to the coronavirus.[8] Several of the Named Plaintiffs, for example, fall within this category. *See, e.g.*, TRO Ex. 9, Declaration of Clifton Belton, Jr. ¶ 3 ("Belton Decl."); TRO Ex. 1, Declaration of Cedric J. Franklin ¶ 4 ("Franklin Decl."); TRO Ex. 2, Declaration of Willie Shepherd ¶ 4 ("Shepherd Decl."). Based on these demographics alone, it is safe to estimate that the Medically Vulnerable Subclass would number well over hundreds of people..

The Jail Class—and thus each of the subclasses—will continue to grow as law enforcement officers continue to arrest and detain individuals from the community during this extended health pandemic. In May 2020 alone, Baton Rouge police officers made over 180 arrests. The resulting class easily exceeds 900 people and the subclasses number more than 100 people, by the most conservative estimates. Because the number of potential plaintiffs in the proposed class and subclasses vastly exceeds the number who could be joined practicably, and because there are unknown future members of the class, Rule 23(a)(1) is satisfied here.

II. Claims by The Proposed Class Raise Common Questions That Will Generate Common Answers.

The claims asserted on behalf of the proposed class include common questions of law and fact that satisfy Rule 23(a)(2). Commonality requires that at least one of the class members' claims

[8] Peter Wagner & Emily Widra, *No Need to Wait for Pandemics: The Public Health Case for Criminal Justice Reform*, Prison Policy Initiative (Mar. 6, 2020),https://www.prisonpolicy.org/blog/2020/03/06/pandemic/.

"depend upon a common contention" of fact *or* law such that "determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke. *Wal-Mart*, 564 U.S. at 350. These common questions must also "generate common *answers* apt to drive the resolution of the litigation." *Id.* at 349 (quoting Richard A. Nagareda, *Class Certification in the Age of Aggregate Proof*, 84 N.Y.U. L. Rev. 97, 132 (2009)). Courts find common questions of both law and fact "at a high level of generality." 1 William B. Rubenstein et al., *Newberg on Class Actions* § 3:19 (5th ed. updated 2019) (internal quotations and citation omitted).

"To satisfy the commonality requirement under Rule 23(a)(2), class members must raise at least one contention that is central to the validity of each class member's claims." *In re Deepwater Horizon*, 739 F.3d at 810. The threshold for commonality is "not demanding." *Mullen*, 186 F.3d at 625. The Rule asks whether the disputed questions are capable of class-wide proof or resolution; claims need not be identical. *Wal-Mart*, 564 U.S. at 350 ("'Even a single [common] question' will do" (citation omitted)).

The test for commonality is not demanding, *In re Chinese-Manufactured Drywall*, 424 F. Supp. 3d at 482 (noting that standard for commonality is "easily met in most cases") (citation omitted); *Jenkins v. Raymark Indus., Inc.*, 782 F.2d 468, 472 (5th Cir. 1986) ("The threshold of 'commonality' is not high."); *Vine v. PLS Fin. Servs., Inc.*, 331 F.R.D. 325, 332 (E.D. Tex. 2019) (same), and "does not require that all questions of law or fact raised in the litigation be common." *In re Chinese-Manufactured Drywall*, 424 F. Supp. 3d at 482. Rather, "[t]he commonality requirement is satisfied if at least one issue's resolution will affect all or a significant number of class members." *Id.* (citation omitted); *Cleven v Mid-America Apartment Cmtys., Inc.*, 328 F.R.D. 452, 459 (W.D. Tex. 2018) ("the existence of some factual differences among class members will not defeat commonality if there is at least a single common question that 'will resolve an issue that

is central to the validity of each one of the claims in one stroke.'") (citation and emphasis omitted). "Even a single common question will do." *In re Deepwater Horizon*, 739 F.3d at 812 (citation omitted).

Additionally, commonality requires "a unified common policy, practice, or course of conduct that is the source of their alleged injury." *Dockery*, 253 F. Supp. 3d at 846; 1 William B. Rubenstein et al., *Newberg on Class Actions* § 3:20 (5th ed. updated 2019) ("When the party opposing the class has engaged in some course of conduct that affects a group of persons and gives rise to a cause of action, one or more of the elements of that cause of action will be common to all of the persons affected."). The policy or practice at issue need not be formal or officially-adopted, *Dockery*, 253 F. Supp. 3d at 846, 853, and may be identified on the basis of custom or consistent practice. *Id.* (citation omitted). The failure to act may itself be a policy or practice. *Id.* at 848. "The critical question here is whether the government has failed to respond to a need . . . in such a manner as to show 'deliberate indifference' to the risk that not addressing the need will result in constitutional violations." *Id*. at 847.

Accordingly, courts in the Fifth Circuit have repeatedly certified class actions in which incarcerated people challenge the circumstances or conditions of their detention.[9] *See, e.g.*, *Yates v. Collier*, 868 F.3d 354, 362 (5th Cir. 2017) (certifying injunctive class of inmates challenging the conditions of their confinement where they suffered from "excessive heat" and jail staff who are "deliberately indifferent to the risk posed to the inmates."); *Lewis*, 324 F.R.D. at 176. (certifying class of inmates at Louisiana State Penitentiary alleging, *inter alia*, that the prison's

[9] Numerous courts outside of the Fifth Circuit have done the same. *See, e.g.*, *Brown*, 563 U.S. at 506-08; *Parsons v. Ryan*, 754 F.3d 657, 681 (9th Cir. 2014); *Decoteau v. Raemisch*, 304 F.R.D. 683, 688-89 (D. Colo. 2014); *Redmond v. Bigelow*, No. 13-cv-393, 2014 WL 2765469, at *4 (D. Utah June 18, 2014); *Butler v. Suffolk Cty.*, 289 F.R.D. 80, 98 (E.D.N.Y. 2013); *Henderson v. Thomas*, 289 F.R.D. 506, 511 (M.D. Ala. 2012); *Ind. Prot. & Advocacy Servs. Comm'n v. Comm'r, Ind. Dep't of Corr.*, No. 1:08-cv-01317-TWP-MJD, 2012 WL 6738517, at *18 (S.D. Ind. Dec. 31, 2012).

medical care violated the Eighth Amendment prohibition of cruel and unusual punishment); *Jones v. Gusman*, 296 F.R.D. 416 (E.D. La. 2013) (certifying settlement class alleging deficiencies in parish jail health care); *Dockery*, 253 F. Supp. 3d at 839, 856-57 (certifying class of inmates alleging under Section 1983 that their conditions of confinement violated Eighth Amendment right to be free from cruel and unusual punishment); *J.D.*, 255 F.R.D. at 417 (certifying class of inmates at juvenile detention center challenging dangerous conditions at detention center).

At the core of this case is the common course of conduct inflicting constitutional injury on each member of the proposed class: namely, permitting the unsafe and unhygienic conditions prevailing in the Jail and the concomitant risks of contracting COVID-19 created by those conditions. All class members suffer the same injury, namely an unconstitutional risk of exposure to an extraordinarily dangerous disease that can result in serious or fatal complications. And all members of the Medically Vulnerable Subclass share a greatly elevated risk of suffering death or permanent organ damage or failure should they contract the virus.

These injuries are "*capable* of classwide resolution," *Wal-Mart*, 564 U.S. at 350 (emphasis added), because the Court can issue a single declaration finding that the conditions in the Jail are in violation of the Eighth and Fourteenth Amendments and ordering immediate remedies to address the conditions. And a single additional remedy mandating release of the Medically Vulnerable Subclass can address the increased risk to the subclass. Thus, this case goes far beyond the "single common question [that] will do." *Id.* at 359 (internal quotation marks and citation omitted). Indeed, *most* questions of fact and law that will arise in this suit are common across the class. Among the most central common questions of fact are:

- What measures Defendants implemented in the Jail in response to the COVID-19 crisis;
- Whether the conditions in the Jail are sufficient to prevent an unreasonable risk of

the spread of COVID-19;

- Whether Defendants' practices during the COVID-19 pandemic expose detainees at the Jail to a substantial risk of serious harm;

- Whether Defendants knew of and disregarded a substantial risk of serious harm to the health and safety of the class and subclasses; and

- Whether COVID-19 presents a heightened risk of harm and potential death to the Medically Vulnerable Subclass.

Among the most important common questions of law are:

- As to the entire class: whether the conditions in which the class is confined are objectively unreasonable given the health risks to class members.[10]

- As to the Pre-Trial Subclass: whether Defendants are liable under the Fourteenth Amendment for establishing a *de facto* policy denying health care to detainees and whether the objectively unreasonable conditions of confinement are likely to cause serious illness and needless suffering.

- As to the Post-Conviction Subclass: whether Defendants are liable under the Eighth Amendment for their deliberate indifference to conditions of confinement that are likely to cause serious illness and needless suffering.

- As to the Medically Vulnerable Subclass: whether the threat of harm or death to members of the subclass is constitutionally impermissible such that the only adequate remedy is release from custody.

In short, common questions of fact and law pervade this case, satisfying the Rule 23(a)(2) commonality requirement.

III. The Named Plaintiffs' Claims Are Typical of the Claims of the Proposed Class.

The Named Plaintiffs in this case have claims typical of all members of the class, *i.e.*, of all the people incarcerated in the Jail. To meet the typicality requirement, the Named Plaintiffs'

[10] As explained in footnote 1, *supra*, and in the Temporary Restraining Order Brief, the Eighth Amendment governs the constitutionality of the terms of confinement for people who have been convicted, whereas the Fourteenth Amendment governs the constitutionality of the terms of confinement for people still awaiting trial. To find an Eighth Amendment violation as to the Post-Conviction Subclass, this Court must find both that the conditions in the Prison are objectively unreasonable and that the Prison was subjectively aware of and disregarded the risks. To find a Fourteenth Amendment violation as to the Pre-Trial Subclass, the objective unreasonableness component of the inquiry is all that applies and is common to all subclasses. *See* Compl. ¶¶ 148-52; TRO Br. at 28-33.

claims must be "typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). "The commonality and typicality requirements of Rule 23(a) tend to merge." *Wal-Mart*, 564 U.S. at 349 n.5; *Lewis*, 324 F.R.D. at 169 ("typicality is commonality addressed from the perspective of the named plaintiffs.") (citation omitted)). "Often, once commonality is shown, typicality will follow as a matter of course." *Dockery*, 253 F. Supp. 3d at 850. As such, typicality is "somewhat of a low hurdle." *Dunn v. Dunn*, 318 F.R.D. 652, 666 (M.D. Ala. 2016) (citing *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982)). The requirement of "typicality" "focuses . . . on the similarity of the legal and remedial theories behind [the Named Plaintiffs'] claims." *Jenkins*, 782 F.2d at 472. These claims do not need to be identical, but rather must "arise from a similar course of conduct and share the same legal theory" as the class claims. *See Lewis*, 324 F.R.D. at 169. "Most circuits have held that the existence of routine and standardized practices which give rise to numerous claims weighs in favor of finding typicality." *Richard*, 2018 WL 5305377, at *7 (collecting cases).

Courts in the Fifth Circuit have consistently found prisoners' claims to be "typical" of the class they propose to represent where those claims arise from policies or conditions at an institution affecting all members of the proposed class. In *Lewis*, 324 F.R.D. at 169, for example, the court found that a prisoner's claims regarding inadequacy of medical treatment were typical of those of the class of prisoners he sought to represent because they arose from "policies and procedures regarding medical care [which] apply across the board to all prisoners." *Id.* at 172. *See also, e.g.*, *Dockery*, 253 F. Supp. 3d at 855 (finding Rule 23(a)(3)'s typicality commonality requirement satisfied because "the claims of each putative class and subclass member (1) arise from the same policy or practice, i.e. the prison officials' alleged failure to take corrective action, and the same defect, i.e. the existence of inhumane conditions of confinement, and (2) are based on the same

legal theory, i.e. the alleged violation of the Eighth Amendment right to be free from cruel and unusual punishment"); *Jones*, 296 F.R.D. at 466 ("While class members' experiences at OPP may differ, 'the claims arise from a similar course of conduct and share the same legal theory' and, therefore, 'factual differences will not defeat typicality' in this case.") (citation omitted); *cf. Parsons*, 754 F.3d at 686 ("[G]iven that every inmate in ADC custody is highly likely to require medical, mental health, and dental care, each of the named plaintiffs is similarly positioned to all other ADC inmates with respect to a substantial risk of serious harm resulting from exposure to the defendants' policies and practices governing healthcare.").

In other COVID-19-related litigation, federal courts recently have found that both classes of detainees at large and medically vulnerable subclasses have satisfied Rule 23(a)'s typicality requirement. *See, e.g.*, *Cameron v. Bouchard*, No. 20-10949, 2020 WL 2569868, at *18 (E.D. Mich. May 21, 2020) ("Typicality is satisfied for the Jail Class, as well as the Pre-Trial and Post-Conviction Subclasses at large because Plaintiffs allege the same injurious conduct stemming from Defendants' response to the coronavirus pandemic"); *see also Savino v. Souza*, No. 20-10617-WGY, 2020 WL 1703844, at *7 (D. Mass. Apr. 8, 2020) ("Crucial to the Court's determination is the troubling fact that even perfectly healthy detainees are seriously threatened by COVID-19.").

All Named Plaintiffs, each class member, and each subclass member are similarly impacted by Defendants' inadequate response to the coronavirus pandemic, such that their conditions of confinement are unconstitutional. *Cameron*, 2020 WL 2569868, at *18. These conditions include detainees' inability to practice social distancing in the jail's common areas, jail staff's inconsistent use of masks and gloves, detainees' lack of adequate protective equipment or cleaning supplies, inadequate medical care and medical responses to COVID-19 cases, and jail staff and work release inmates leaving and returning to the jail each day.

In sum, the Named Plaintiffs' experiences mirror those of all class members and demonstrate that the harms are widespread across all types of class members.

IV. The Named Plaintiffs Are Competent and Dedicated Class Representatives.

The Named Plaintiffs also fulfill the final requirement under Rule 23(a): they "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). Courts in the Fifth Circuit find that the adequacy element contains "three separate but related prongs: (1) zeal and competence of class counsel; (2) class representatives' willingness and ability to take an active role in and control litigation and to protect interests of absentees; and (3) risk of conflicts of interest between named plaintiffs and class they seek to represent." *Richard*, 2018 WL 5305377, at *8.

In order to satisfy the first adequacy requirement, Plaintiffs need only show that they have retained counsel who are knowledgeable and experienced in civil rights law and prosecuting class actions, *id.*, and that they will fairly and adequately represent the interests of the class. *Id.* Absent proof to the contrary, courts will presume that this requirement is met. *Id.*

In order to satisfy the second adequacy requirement, a Plaintiff must show that that the proposed class representatives are willing and able to "take an active role in and control the litigation and to protect the interests of absentees." *Jones v. Singing River Health Servs. Found.*, 865 F.3d 285, 294 (5th Cir. 2017) (quoting *Horton v. Goose Creek Indep. Sch. Dist.*, 690 F.2d 470, 484 (5th Cir. 1982)); *Rooney v. EZCORP, Inc.*, 330 F.R.D. 439, 446 (W.D. Tex. 2019) ("the plaintiff must show that he is willing and able to 'vigorously prosecute the interests of the class through qualified counsel.'") (citation omitted). This requirement is easily met where the class representative's interests are identical to those of the putative class. *Richard*, 2018 WL 5305377, at *8.

In order to satisfy the final adequacy requirement, Plaintiffs must show the absence of a conflict of interests between the proposed class representatives and the putative class. *In re*

Chinese-Manufactured Drywall, 424 F. Supp. 3d at 483.

Named Plaintiffs satisfy the first adequacy criterion: adequacy of counsel. Plaintiffs' counsel include highly qualified and experienced civil rights, criminal defense, and civil litigation attorneys who are able and willing to conduct this litigation on behalf of the class. Plaintiffs' counsel from the Advancement Project, the Fair Fight Initiative, the Center for Constitutional Rights, Professor Bill Quigley, and Hogan Lovells US LLP collectively have extensive experience litigating complex class action and civil rights cases, including cases concerning the constitutional rights of incarcerated people. *See* Ex. 2, Declaration of Lillian Hardy ¶¶ 3-5 ("Lillian Hardy Decl."); Ex. 3, Declaration of David Utter ¶¶ 4-7 ("Utter Decl."); Ex. 4, Declaration of Baher Azmy ¶¶ 2-5 ("Azmy Decl."); Ex. 5, Declaration of Thomas Harvey ¶¶ 3-5, 8-9 ("Havey Decl."); Ex. 6, Declaration of William Quigley ¶¶ 2, 5, 7-8, 13-14 ("Quigley Decl."). As evidenced by the cited declarations and the filings in the cases noted therein, counsel have a history of zealous advocacy on behalf of their clients.

Named Plaintiffs meet the second adequacy criterion because they are ready and willing to take an active role in litigating this case, including by responding to discovery as needed. Each has met with counsel multiple times by phone (the only method of communication possible in light of the pandemic crisis), are aware of the duties and obligations that apply to representative plaintiffs in class litigation, and are committed to seeking relief on behalf of all class members. Finally, as noted throughout, Named Plaintiffs' interests are identical to that of their fellow inmates who make up the class.

Named Plaintiffs meet the third adequacy criterion because they do not have interests that are in any way contrary to the rest of the class. They all share with the class the common goal of living in conditions that satisfy constitutional requirements. The relief they seek—declaratory and

injunctive relief from unconstitutional policies and practices—would benefit the entire class equally. There are no conflicts between the Named Plaintiffs and the class. Accordingly, Named Plaintiffs and their counsel meet Rule 23(a)(4)'s adequacy requirement.

V. Certification of the Class for Prospective Relief is Appropriate Under Rule 23(b)(2).

In addition to satisfying the requirements of Rule 23(a), a plaintiff seeking class certification must show that they also satisfy one of the criteria articulated in Rule 23(b). *Yates*, 868 F.3d at 366. Named Plaintiffs' proposed class is ideal for certification under Rule 23(b)(2).

To certify a class under Rule 23(b)(2), the party seeking class certification must show that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). In other words, the inquiry under Rule 23(b)(2) is not as to the existence of common issues between the class members, but rather "common behavior by the defendant towards the class." *Yates*, 868 F.3d at 366 (citation omitted). "This is a simple inquiry in most cases." 2 William B. Rubenstein et al., *Newberg on Class Actions* § 4:28 (5th ed. updated 2019). The requirement of a generally applicable set of actions "ensures that the class's interests are related in a manner that makes aggregate litigation appropriate . . . and therefore efficient." *Id.* Thus, "Rule 23(b)(2) applies . . . when a single injunction or declaratory judgment would provide relief to each member of the class." *Wal-Mart*, 564 U.S. at 360.

As the Supreme Court has recognized, civil rights cases are "prime examples" of Rule 23(b)(2) class actions. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997); *see also Wal-Mart*, 564 U.S. at 361; 2 William B. Rubenstein et al., *Newberg on Class Actions* § 4:40 (5th ed. updated 2019) ("Rule 23(b)(2) class actions are particularly effective in civil rights cases because these cases often involve classes which are difficult to enumerate but which involve allegations

that a defendant's conduct affected all class members in the same way"). In actions primarily seeking injunctive relief, the (b)(2) requirement is "almost automatically satisfied." *Baby Neal ex rel. Kanter v. Casey*, 43 F.3d 48, 58 (3d Cir. 1994). "What is important is that the relief sought by the named plaintiffs should benefit the entire class." *Id.* at 59.

In the Fifth Circuit, 23(b)(2) is interpreted to have three components. *Dockery*, 253 F. Supp. 3d at 850. First, "class members must have been harmed in essentially the same way." *Id.* (citation omitted). Second, "injunctive relief must predominate over monetary damage claims." *Id.* (citation omitted). Finally, the injunctive relief requested must be specific. *Id.*[11]

The class proposed here is exactly the kind of class that Rule 23(b)(2) embraces. *See id.* First, the policies and practices of the Defendants and the condition existing at the prison affect the class as a whole. Specifically, Defendants have permitted unsafe and effectively lethal conditions to persist within the Prison, notwithstanding their awareness of that danger.

Second, injunctive and declaratory relief are appropriate precisely because the only adequate relief requires enjoining Defendants' unconstitutional policies and practices across the board and declaring their unconstitutionality. Indeed, the Fifth Circuit has made clear that a class action is the *only* way to provide appropriate relief in this case. In *Ball v. LeBlanc*, 792 F.3d 584, 599 (5th Cir. 2015), the Fifth Circuit vacated an injunction mandating that the Department Of Corrections provide adequate cooling throughout death row, holding that the Prison Litigation Reform Act "limits relief to the particular plaintiffs before the court" and bars "facility-wide relief" in a non-class action. *Id.* Here, adequate relief is impossible without facility-wide relief. There is simply no individually tailored relief that can ensure that a named plaintiff receives adequate

[11] The precise terms of the injunction need not be articulated at class certification, it is sufficient that "the class members' claim is such that a sufficiently specific injunction can be conceived." *Dockery*, 253 F. Supp. 3d at 851.

protection from COVID-19. Not only that, but it is far more efficient for this Court to grant injunctive and declaratory relief protecting the entire class than to extend that relief piecemeal through individual suits. Finally, the second Rule 23(b)(2) requirement is clearly met where, as here, Named Plaintiffs do not seek monetary damages for their claims. *Dockery*, 253 F. Supp. 3d at 855.

Third, as seen above, there are myriad forms of injunctive relief which would remedy the dangers faced by the class. Compl. at 62-65.

Finally, class certification is further necessary because of the inherently transitory nature of the constitutional harms at issue here: any individual class member's claim might become moot before it could be addressed on the merits, and new class members face the prospect of immediate harm through unconstitutional exposure to the conditions in the Jail the moment they are detained. *See Johnson*, 658 F.2d at 1070. Accordingly, this Court should certify the class under Rule 23(b)(2).

Within the Fifth Circuit, many courts have certified prisoner class actions under Rule 23(b)(2) where the claims challenge conditions affecting the larger population of incarcerated people. *See, e.g.*, *Yates*, 868 F.3d at 367 (granting class certification in action by inmates asking court to enjoin defendants maintain a safe indoor temperature in prison buildings); *Lewis*, 324 F.R.D. at 176 (certifying class of inmates at Louisiana State Prison seeking injunctive relief regarding medical care at prison); *Dockery*, 253 F. Supp. 3d at 842, 856-57 (certifying class of inmates seeking to enjoin named prison officials from continued use of dangerous policies and practices, and that they be required to implement a plan to eliminate the substantial risks of harm that result from those policies and practices); *J.D.*, 255 F.R.D. at 417 (certifying class of inmates at juvenile detention center seeking injunctive relief with respect to conditions at detention center).

VI. Plaintiffs' Counsel Should Be Appointed Class Counsel Under Rule 23(g).

Federal Rule of Civil Procedure 23(g) requires that the court appoint class counsel for any class that is certified. Fed. R. Civ. P. 23(g)(1). Class counsel must "fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B). A court must consider factors including: (1) "the work counsel has done in identifying or investigating potential claims in this action"; (2) "counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action"; (3) "counsel's knowledge of the applicable law"; and (4) "the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv).

The undersigned counsel satisfy these requirements. First, Plaintiffs' counsel have interviewed Named Plaintiffs and other class members, performed relevant legal research and drafting, and investigated the facts and legal claims raised in this case in detail, despite the significant practical obstacles posed by the nature of the current global health crisis. Ex. 2, Lillian Hardy Decl. ¶ 7; Ex. 3, Utter Decl. ¶ 9; Ex. 4, Azmy Decl. ¶ 10; Ex. 5, Harvey Decl. ¶ 10; *supra* Section IV. Second, Plaintiffs' counsel have significant experience litigating class and civil rights actions, including extensive and specific experiencing litigating cases involving the rights of incarcerated peoples and individuals at risk of COVID-19 inside detention facilities. Ex. 2, Lillian Hardy Decl. ¶¶ 3-5; Ex. 3, Utter Decl. ¶¶ 4-7; Ex. 4, Azmy Decl. ¶¶ 2-5; Ex. 5, Havey Decl. ¶¶ 3-5, 8-9, Ex. 6, Quigley Decl. ¶¶ 2, 5, 7-8, 13-14. Finally, Plaintiffs' counsel are prepared to contribute significant resources to the representation of this class. Ex. 2, Lillian Hardy Decl. ¶ 7; Ex. 3, Utter Decl. ¶ 9; Ex. 4, Azmy Decl. ¶ 10; Ex. 5, Harvey Decl. ¶ 10. Therefore, Plaintiffs' counsel satisfies the four criteria in Rule 23(g), and they respectfully request appointment as class counsel.

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that this Court certify the class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. Plaintiffs also request that undersigned counsel be appointed class counsel under Rules 23(g). In the alternative, if Defendants contest material issues of fact necessary for class certification, Plaintiffs request the opportunity to conduct discovery related to class certification and a subsequent hearing.

Respectfully submitted, this 27th day of May, 2020.

/s/ David J. Utter
David J. Utter (LA Bar No. 23236)
William R. Claiborne (GA Bar No. 126363)*
FAIR FIGHT INITIATIVE
410 East Bay Street
Savannah, Georgia 31401
(912) 236-9559 Telephone
(912) 236-1884 Facsimile
david@fairfightinitative.org
will@fairfightinitative.org
Attorneys for Plaintiffs

**Pro Hac Vice motion pending*

/s/Miriam R. Nemeth
Thomas B. Harvey (MBE #61734MO)*
Miriam R. Nemeth (DC Bar No. 1028529)**
Tiffany Yang (DC Bar No. 230836)*
ADVANCEMENT PROJECT NATIONAL OFFICE
1220 L Street NW, Suite 850
Washington, DC 20005
(202) 728-9557 Telephone
tharvey@advancementproject.org
mnemeth@advancementproject.org
tyang@advancementproject.org
Attorneys for Plaintiffs

**Pro Hac Vice motions pending*
*** Lead Attorney for Plaintiffs*

/s/ Lillian S. Hardy
Lillian S. Hardy (DC Bar No. 991282)*
Hogan Lovells US LLP
555 Thirteenth Street NW
Washington, DC 20004
(202) 637-5884 Telephone
lillian.hardy@hoganlovells.com
Attorneys for Plaintiffs

**Pro Hac Vice motion pending*

/s/ William P. Quigley
William P. Quigley (LA Bar No. 00769)
Loyola University New Orleans
7214 St. Charles Avenue
Campus Box 902
New Orleans, LA 70117
Attorney for Plaintiffs

/s/ Baher Azmy
Baher Azmy (NY Bar No. 2860740)*
Omar Farah (NY Bar No. 4641247)*
Brittany Thomas (NY Bar No. 5683834)*
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 11201
(212) 614-6427 Telephone
bazmy@ccrjustice.org
ofarah@ccrjustice.org
bthomas@ccrjustice.org
Attorneys for Plaintiffs

**Pro Hac Vice motions forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2020 a copy of the foregoing was sent to all parties via electronic mail upon the following:

Michael P. Schillage
Assistant Parish Attorney
Office of the East Baton Rouge Parish Attorney
222 St. Louis Street, Suite 902
Baton Rouge, LA 70803
MSchillage@brla.gov

Catherine St. Pierre
Erlingson Banks, PLLC
One American Place
301 Main Street Suite 2110
Baton Rouge, LA 70801
cstpierre@erlingsonbanks.com

/s/ David J. Utter
David J. Utter