IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 20-cv-977-PAB-SKC

THOMAS CARRANZA;
JESUS MARTINEZ;
RICHARD BARNUM;
THOMAS LEWIS;
MICHAEL WARD;
COLBY PROPES; and
CHAD HUNTER,

Plaintiffs, on their own and on behalf of a class of similarly situated persons,

v.

STEVEN REAMS, Sheriff of Weld County, Colorado, in his official capacity,

Defendant.

JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFICATION OF A CLASS AND APPOINTMENT OF CLASS COUNSEL, AND PERMISSION TO POST CLASS NOTICE

Plaintiffs Jesus Martinez and Chad Hunter (collectively "Plaintiffs"), through counsel, and Defendant Steven Reams, through counsel, move for preliminary approval of a class action settlement, certification of a class, appointment of class counsel, and permission to post class notice. In support of this motion, they state as follows:

INTRODUCTION

Plaintiffs brought this case as a class action, alleging Defendant Sheriff Reams acted with deliberate indifference to the lives and health of medically vulnerable persons in his custody in the Weld County Jail ("WCJ") by failing to take necessary measures to prevent the spread of COVID-19 and to protect such medically vulnerable persons from COVID-19. Plaintiffs brought two claims for declaratory and injunctive relief under 42

U.S.C. § 1983, alleging violation of the Due Process Clause under the Fourteenth Amendment, and for cruel and unusual punishment under the Eighth Amendment. Defendant Reams denied any wrongdoing and contended that he was taking appropriate measures to protect inmates at the WCJ.

This Court held a preliminary injunction hearing in this matter on April 30, 2020. By Order dated May 11, 2020, this Court entered a detailed preliminary injunction setting forth steps Defendant must take to identify and to protect medically vulnerable inmates at the Weld County Jail. [Dkt. 55]. The preliminary injunction has been extended multiple times, most recently through December 9, 2020. [Dkt. 93].

With the benefit of this Court's preliminary injunction ruling, the parties engaged in a protracted, arms-length negotiation to attempt to resolve this dispute. Those efforts have proven successful. The parties now bring this motion seeking preliminary approval of their class action settlement and approval of a settlement class, which if approved would result in the entry of a detailed Consent Decree, in the form attached hereto as Exhibit A, that ensures that measures remain in place to protect class members from COVID-19 within the WCJ through the duration of this public health emergency.

Preliminary Approval of the Parties' Settlement

Fed. R. Civ. P. 23(e) requires the "court's approval" for any settlement that includes certification of a class. Before approving a class settlement, the Court must hold a hearing to determine whether the settlement is "fair, reasonable, and adequate," after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arms-length; (C) the relief provided for the class is adequate; and (D) the proposal treats class members equitably relative to each

other. *See* Fed. R. Civ. P. 23(e)(2). The Tenth Circuit has recently affirmed that the key questions when undertaking this inquiry are whether: (1) the settlement was fairly and honestly negotiated, (2) serious legal and factual questions placed the litigation's outcome in doubt, (3) the immediate recovery was more valuable than the mere possibility of a more favorable outcome after further litigation, and (4) [the parties] believed the settlement was fair and reasonable. *See Elna Sefcovic, LLC v. TEP Rocky Mtn., LLC*, 807 F. App'x 752, 757 (10th Cir. 2020) (quoting *Tennille v. W. Union Co*., 785 F.3d 422, 434 (10th Cir. 2015)). The settlement the parties seek to have approved by this Court meets all of these criteria.

A. The Settlement Was Fairly and Honestly Negotiated.

The proposed Consent Decree that the parties have placed before this Court was negotiated at arms-length by attorneys with no conflicts of interest who vigorously advocated for their respective clients' positions. The negotiations began in July 2020 with telephone calls among counsel and exchanges of draft settlement papers. When the negotiations stalled, a breakthrough was achieved through direct phone calls between the Legal Director of the ACLU of Colorado and the County Attorney for Weld County. Once back on track, multiple drafts of a proposed agreement were exchanged, with compromises made by both sides. That spirited, arms-length negotiation process ultimately proved successful in allowing the parties to achieve a resolution that both sides agree will promote safety in the WCJ with respect to COVID-19, while allowing Sheriff Reams to protect the public and operate the WCJ as required by law. There has been no suggestion of any conflicts of interest with respect to the negotiation of this agreement, and there were none.

B. Serious Legal and Factual Questions Placed the Litigation's Outcome in Doubt.

While Plaintiffs' counsel believe that Plaintiffs would have prevailed at trial, they had no certainty as to what the scope of relief would be in an action such as this one. Given that COVID-19 is a new disease and the scope of knowledge about it is constantly evolving, there is inherent uncertainty as to what relief the Court would ultimately order if liability were found at trial. For his part, Defendant Sheriff Reams has continued to maintain that he did not act with deliberate indifference to the rights of Plaintiffs, and if this case were to proceed to trial, Defendant believes this Court would have determined the Sheriff has not been deliberately indifferent. In light of the foregoing, both sides perceived uncertainty as to the litigation's outcome if the matter proceeded to trial.

C. Immediate Recovery Is More Valuable Than Proceeding To Trial.

Both sides to this dispute have used settlement negotiation to achieve a creative result which includes immediate protections that may not have been provided even if Plaintiffs prevailed at trial. For example, the proposed Consent Decree contains modified arrest standards for the WCJ that would be hard to have achieved through litigation, and detailed information-sharing requirements and restrictions that similarly would have been hard to achieve through litigation. Moreover, given the immediacy of the COVID-19 crisis, waiting until after trial in mid-2021 to secure the relief agreed to in the proposed Consent Decree would have sacrificed much of the value of litigating in the first place.

D. The Parties' Settlement Is Fair and Reasonable.

The parties' settlement negotiations began with an understanding to use the requirements this Court imposed through its preliminary injunction as a baseline for the negotiations, as those requirements already had the Court's imprimatur of fairness. The

parties then considered each side's requests for modifications to those procedures, as well as Plaintiffs' demand for attorney's fees. Key terms of the final agreements reached in the accompanying proposed Consent Decree are as follows:

1) For purposes of the proposed Consent Decree, the designation of who is "medically vulnerable" is defined in line with U.S. Centers for Disease Control and Prevention ("CDC") guidance current as of the date the proposed Consent Decree and Final Judgment was submitted to the Court, yet subject to modification if the CDC's guidance changes;

2) WCJ will identify medically vulnerable inmates during booking and intake, including screening for specific medical conditions set forth in the proposed Consent Decree, in English or Spanish at each inmate's election. Persons identified as medically vulnerable will be protected from exposure to others during the remainder of the intake process to the extent possible;

3) WCJ will attempt to single-cell medically vulnerable inmates in the intake/transition units consistent with CDC guidelines, and the Consent Decree contains specific procedures to minimize exposure to others if single cells are not available based on the population size of WCJ;

4) WCJ will continue to limit exposure of medically vulnerable persons in the general jail population, including with respect to cell assignments and with respect to time spent outside of cells;

5) WCJ will permit the maximum amount of daily out-of-cell time for inmates consistent with social distancing protocols and allowable cohorting;

6) WCJ will medically isolate COVID-19-positive inmates in an isolation unit consistent with CDC guidelines and ensure that medical isolation for COVID-19 inmates is in a non-punitive environment, allowing access to personal and recreational items which can be effectively sanitized;

7) WCJ will continue stringent enhanced sanitation procedures throughout the jail to help control the spread of COVID-19;

8) WCJ will distribute masks, with the option to provide two cloth masks per inmate for non-medically vulnerable persons, and disposable masks for medically vulnerable persons, with the disposable masks to be replaced at the frequency consistent with CDC guidelines and manufacturer recommendations;

9) To help limit the spread of COVID-19 in the community outside of the jail, inmates will be given masks to take with them upon release from the WCJ;

10) Medically vulnerable inmates will be regularly monitored by healthcare professionals for COVID-19 symptoms;

11) WCJ will provide testing for inmates for COVID-19 consistent with CDC guidelines;

12) Remote visitation opportunities will be continued;

13) Inmates will receive regular information and updates regarding COVID-19 prevention;

14) Persons identified as “medically vulnerable” at intake will be provided with a document stating that they have been so designated;

15) Defendant will maintain modified arrest standards, varying somewhat depending on the status of an ongoing jail construction project, that will remain in place for the duration of the COVID-19 emergency. These modified arrest standards, set forth as an attachment to the proposed Consent Decree, restrict who WCJ will accept, by category of offense;

16) On a regular basis, Defendant will advise chiefs of police in Weld County to be judicious with jail space and to minimize the scope of arrestees in their jurisdictions and maximize the number of persons subject to arrest who are issued summonses or personal recognizance bonds in their jurisdictions;

17) Every two weeks, WCJ will provide the Chief Judge for the Nineteenth Judicial District of Colorado and the Colorado Division of Adult Parole a list of all inmates housed at WCJ, with a request to the Chief Judge for a docket review for potential judicial action;

18) Defendant will comply with robust data reporting requirements to Plaintiffs' counsel, so as to allow class counsel to monitor the performance of WCJ under the Consent Decree. Plaintiffs, and Class counsel when acting on behalf of class members, agree not to circumvent these agreed data reporting requirements by making additional requests under the Colorado Open Records Act or Colorado Criminal Justice Records Act relating to WCJ's COVID-19 response or population statistics;

19) Plaintiffs and the Class will release claims for injunctive and declaratory relief arising from COVID-19 at the WCJ, and associated costs and attorney's fees, accruing through the date of the Consent Decree. The

release does not include claims concerning conduct that occurs after the date the Consent Decree is entered, and it does not include any money damages claims;

20) The duration of the Consent Decree is through the time that the Executive Order of the Governor of the State of Colorado declaring a statewide emergency for COVID-19 expires and is not renewed or replaced with an equivalent declaration;

21) Defendant will pay counsel for Plaintiffs $122,387.60 for attorney's fees and costs; and

22) The parties agree that the Consent Decree is entered into for purposes of settlement and should not be construed as an admission of wrongdoing.

All parties believe the foregoing terms are a fair and reasonable resolution to this dispute. The resolution contains detailed, concrete steps that are consistent with CDC best practices. They reflect the strong desire of all parties to ensure that COVID-19 exposure at WCJ is minimized to the extent reasonably possible.

For the foregoing reasons, the parties request that the Court provide its preliminary approval of the proposed settlement embodied in the Consent Decree, and find that it satisfies the requirements of Fed. R. Civ. P. 23(e)(2).

Certification of Settlement Class and Appointment of Class Counsel

Plaintiffs and Defendant request that this Court certify a settlement class in this action pursuant to Fed. R. Civ. P. 23(b)(2), and that it appoint counsel for Plaintiffs as class counsel. The settlement class the parties seek to have certified is a class of the following individuals:

> All past, present, and future inmates housed within the Weld County Jail from April 7, 2020 through the "COVID-19 Emergency End Date" who are "medically vulnerable."
>
> An inmate is "medically vulnerable" if, pursuant to CDC guidelines for correctional facilities like the WCJ which exist as of the date this proposed Consent Decree and Final Judgment was submitted to the Court, the inmate has one or more of the following conditions: is 65 years and older; has chronic lung disease including COPD; has moderate to severe asthma; has serious heart conditions such as heart failure, coronary artery disease or cardiomyopathies; has sickle cell disease; is immunocompromised; has severe obesity (e.g. BMI of 30 or higher); has diabetes; has chronic kidney disease and is undergoing dialysis; has liver disease; has cancer; is pregnant; or is a former or current cigarette smoker.
>
> The "COVID-19 Emergency End Date" is the date on which Executive Order D 2020 205 issued by Colorado Governor Jared Polis, Declaring a Disaster Emergency Due to the Presence of Coronavirus Disease 2019 in Colorado, as subsequently amended or extended, expires and is not replaced by a similar Executive Order in light of the ongoing COVID-19 pandemic.

This proposed settlement class fully satisfies all of the requirements of Fed. R. Civ. P. 23, and specifically for certification of a class under Fed. R. Civ. P. 23(b)(2).

A. The Proposed Class Representatives

The two proposed class representatives fall within the high-risk populations who are particularly vulnerable to COVID-19 and particularly likely to suffer severe illness, life-altering complications, or death as a result of exposure to the virus.[1] The proposed class representatives are Plaintiff Jesus Martinez and Plaintiff Chad Hunter. Both of the proposed class representatives are being held at WCJ.

[1] Five of the original plaintiffs in this action voluntarily dismissed their claims because they have been released or are in the process of being released from WCJ.

B. The Proposed Class Satisfies the Requirements of Fed. R. Civ. P. 23[2]

Class certification is proper under Fed. R. Civ. P. 23(a) if: (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 representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. In addition, the proposed class must be certifiable under one of the three sub-provisions of Fed. R. Civ. P. 23(b). Here, Plaintiffs seek certification under Fed. R. Civ. P. 23(b)(2), because the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

1. The proposed class complies with Rule 23(a)

i. <u>The proposed class is so numerous that joinder would be impracticable.</u>

A class must be sufficiently numerous that joinder of all members is impracticable. Fed. R. Civ. P. 23(a)(1). The impracticability of the joinder requirement does not require that joinder is impossible, but only that the plaintiffs "will suffer a strong litigational hardship or inconvenience if joinder is required." *Cook v. Rockwell Intern. Corp.*, 151 F.R.D. 378, 384 (D. Colo. 1993). "In determining whether a proposed class meets the numerosity requirement, 'the exact number of potential members need not be shown, 'and a court 'may make common sense assumptions to support a finding that joinder

[2] Defendant states he jointly moves for class certification for purposes of settlement only. *See* Fed. R. Civ. P. 23(e) (allowing certification of "class proposed to be certified for purposes of settlement"). If the Court does not approve this settlement and enter the Consent Decree and Final Judgment, or if the settlement is otherwise not finalized, then Defendant reserves the right to contest class certification.

would be impracticable.'" *In re Thornburh Mortgage, Inc. Sec. Litig.*, 912 F. Supp. 2d 1178, 1221 (D.N.M. 2012) (internal quotation omitted). The parties estimate that 69% of the WCJ's current population of 500 inmates is medically vulnerable according to CDC guidance current as of the date and time this Joint Motion was submitted. The class also includes a large number of unknown and unnamed future class members, who will be detained in the Weld County Jail in the future and are medically vulnerable to COVID-19. Given these numbers, and the fact that the class also includes persons who will be arrested and detained at the jail in the future, joinder is impracticable and numerosity is satisfied. *See Helmer v. Goodyear Tire & Rubber Co.*, 2014 WL 1133299 at *3-4 (D. Colo. Mar. 21, 2014); *Newberg on Class Actions* § 25:4 (4th ed. 2016) ("Even a small class of fewer than 10 actual members may be upheld if an indeterminate number of individuals are likely to become class members in the future or if the identity or location of many class members is unknown for good cause."); *Jack v. Am. Linen Supply Co.*, 498 F.2d 122, 124 (5th Cir. 1974) (numerosity requirement satisfied when class included "unknown, unnamed future" class members rendering joinder "certainly impracticable").

ii. <u>The proposed class representatives present issues of fact and law in common with the class.</u>

To satisfy commonality, the "[p]laintiff must allege a 'common contention of such a nature that it is capable of class-wide resolution – which means 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 Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). "What matters to class certification . . . is not the raising of common 'questions' – even in droves – but rather, the capacity of a class-wide proceeding to generate common answers apt to drive the resolution of the litigation." *Id.* (internal quotation omitted). For the purposes of

commonality, "even a single common question will do." *Id.* at 359. Courts have repeatedly found commonality is met where the class's claims arise from a common course of conduct on the part of the defendant. *See Kerns v. Spectralink Corp.*, 2013 WL 27380785, at *2 (D. Colo. July 1, 2003). Likewise, in civil rights lawsuits challenging conditions of detention, commonality is satisfied where the lawsuit challenges "systemic policies and practices that allegedly expose inmates to a substantial risk of harm," even where there are "individual factual differences among class members." *Parsons v. Ryan*, 754 F.3d 657, 681-82 (9th Cir. 2014) (collecting cases across the country).

In this case, there are multiple common questions of law and fact pertaining to the WCJ's policies and practices regarding COVID-19. These include questions of whether the WCJ's course of conduct has exposed the class to harm and/or a substantial risk of harm due to its deliberate indifference to the risks of COVID-19, and whether WCJ has failed to take appropriate preventative measures on a system-wide basis. Even more importantly, the answers to these questions drive the resolution of this litigation and have resulted in the proposed Consent Decree, which aims to protect medically vulnerable inmates from exposure to, and death or serious injury from, COVID-19 to the maximum extent possible while they are housed in the WCJ.

iii. <u>The proposed class representatives' claims are typical of those of the class.</u>

Fed. R. Civ. P. 23(a)(3) requires that the putative class representatives' claims be typical of those of the class. "[A] named plaintiff's claim is 'typical' when it arises out of the same event, practice or course of conduct of the defendant, and is based on the same legal theory on which the class claims are predicated." *Murphy v. Lenderlive Network, Inc.*, 2014 WL 5396165, at *4 (D. Colo. Oct. 22, 2014). "Provided the claims of the Named

Plaintiffs and class members are based on the same legal or remedial theory, differing fact situations of the class members do not defeat typicality." *DG ex rel. Stricklin v. Devaugh*, 594 F.3d 1188, 1198-99 (10th Cir. 2010). For the same reason that there are overwhelmingly common issues of fact and law, the Plaintiffs' claims are typical of the class. *See Wal-Mart*, 564 U.S. at 349 n.5 ("The commonality and typicality requirements of Rule 23(a) tend to merge.").

Here, the named Plaintiffs have the same claims and face the same potential harms as members of the proposed class. Named Plaintiffs, similarly to members of the class, are both medically vulnerable.

iv. The proposed class representatives and class counsel can adequately represent the case.

Fed. R. Civ. P. 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." The adequacy requirement ensures that there are no potential "conflicts of interest between named parties and the class they seek to represent." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). "Resolution of two questions determines legal adequacy: (1) do the named plaintiffs and their counsel have any conflicts of interest with other class members, and (2) with the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?" *Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F. 3d 1180, 1187-88 (10th Cir. 2002) (internal citation omitted). Adequate representation is usually presumed absent contrary evidence. *See* 1 *Newberg on Class Actions* § 3:72 (5th Ed. 2019).

First, there is no conflict between the named Plaintiffs and the members of the class. As described above, the named Plaintiffs and class members have the same injury and seek the same relief. Likewise, Plaintiffs' counsel, consisting of Hutchinson, Black

and Cook, LLC in cooperation with the ACLU of Colorado and Killmer, Lane & Newman, LLP; Stimson Stancil LaBranche Hubbard LLC; and Maxted Law LLC, are well-qualified and highly experienced in class action and civil rights matters, and have done extensive work investigating this action. Counsel are exceptionally well versed in class actions and constitutional law, with decades of experience litigating such cases, and have sufficient resources to vigorously prosecute this case.

2. The proposed class is appropriate under Rule 23(b)(2)

Certification under Fed. R. Civ. P. 23(b)(2) is appropriate where, as here, defendants "acted or refused to act on grounds that apply generally to the class[.]" A court may certify a Fed. R. Civ. P. 23(b)(2) class where "a single injunction or declaratory judgment would provide relief to each member of the class." *Jennings v. Rodriguez,* 138 S. Ct. 830, 851-52 (2018) (internal quotation marks omitted). The claims raised and the relief sought by Plaintiffs in this action are precisely the sort that Fed. R. Civ. P. 23(b)(2) was designed to facilitate: "[c]ivil rights cases against parties charged with unlawful, class based discrimination are prime examples" of proper (b)(2) actions. *Amchem Prods.,* 521 U.S. at 614. Here, Plaintiffs seek uniform standardized practices and procedures to protect inmates from exposure to COVID-19. This system-wide, process-based relief is exactly the type of single injunction that would benefit all members of the proposed class – and falls squarely within the purview of Fed. R. Civ. P. 23(b)(2) as a result. In light of the foregoing, the parties respectfully request a Fed. R. Civ. P. 23(b)(2) class be certified.

APPOINTMENT OF CLASS COUNSEL

Pursuant to Fed. R. Civ. P. 23(g)(1), at the time of class certification, the Court "must appoint class counsel." Undersigned counsel for Plaintiffs who brought this action respectfully request to be appointed class counsel.

Undersigned counsel are a group of experienced civil rights lawyers from the ACLU of Colorado, Killmer, Lane and Newman, LLP, Hutchinson Black and Cook, LLC, Stimson Stancil Labranche Hubbard, LLC, and Maxted Law LLC who quickly organized in the early days of the COVID-19 crisis to protect inmates in the WCJ. They have devoted substantial resources to prosecute this case, acting on short notice to secure a preliminary injunction, and have continued to advocate zealously for their clients.

Counsel have years of experience handling class actions in federal and state courts in Colorado and elsewhere in the United States. Their work on this matter to date demonstrates their competence to be appointed as class counsel here.

NOTICE TO THE CLASS

Notice is not required to certify a Fed. R. Civ. P. 23(b)(2) class, which is the Rule 23 subsection under which the parties propose to certify a class. *See* Fed. R. Civ. P. 23(c)(2)(A) ("For any class certified under Rule 23(b)(1) or (b)(2), the court *may* direct appropriate notice to the class." (emphasis added)); *see also* *Wal-Mart*, 564 U.S. at 362 ("The Rule provides no opportunity for (b)(1) or (b)(2) class members to opt out, and does not even oblige the District Court to afford them notice of the action."); *Skinner v. Uphoff*, 175 F. App'x 255, 257-58 (10th Cir. 2006) ("Where, as here, a class is certified under Rule 23(b)(2), notice is discretionary.") (affirming trial court's decision not to provide notice to inmate class members before granting summary judgment, in a civil

rights case seeking only injunctive and declaratory relief regarding conditions of confinement); *Pelt v. Utah*, 539 F.3d 1271, 1289 (10th Cir. 2008) ("Due process does not require notice for absent class members in all actions under Rule 23(b)(2), as long as the class members were adequately represented."). Fed. R. Civ. P. 23(e)(1) does require notice to absent class members prior to settlement, however. That notice must be provided "in a reasonable manner." Fed. R. Civ. P. 23(e)(1)(B).

Though the Court has the discretion to select whatever manner of notice it believes appropriate, the parties suggest a "reasonable manner" to provide notice would be to post notices in portions of the WCJ that house medically vulnerable inmates where it is visible to them. The form of the notice proposed to be posted, to which the proposed Consent Decree attached hereto as Exhibit A would be appended, is attached hereto as Exhibit B. It is not necessary to give individual notices to all class members, for several reasons. First, this Court has already held an evidentiary hearing and has already made substantial factual findings about COVID-19 and the WCJ, so objections about the scope of the Consent Decree will likely add little new information. Second, the proposed Consent Decree shows the myriad agreed steps which Defendant and the WCJ will continue to take to protect medically vulnerable inmates from COVID-19. While class members are entitled to submit objections, providing posted notice is a "reasonable manner" to inform inmates of this settlement and the inmates' option to file an objection. It would also be a significant and unnecessary expenditure of resources for WCJ staff to prepare to distribute notices to individual inmates and then collect objections, when the staff's time and resources should instead be devoted to protecting the health and safety of inmates.

And finally, posted notice is reasonable here because inmates "were adequately represented" by class counsel. *Pelt,* 539 F.3d at 1289. Plaintiffs' counsel have thoroughly investigated and litigated this case. They have continued to monitor the situation in the WCJ, have continued to communicate with inmates, and have vigorously represented the interests of all class members throughout this litigation and the negotiation of this proposed class settlement. In short, all class members were adequately represented.

CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court: (a) preliminarily approve the settlement embodied in the proposed Consent Decree attached as Exhibit A; (b) certify a class for purposes of settlement as described herein; (c) appoint the counsel listed below for Plaintiffs as class counsel; (d) approve the form of notice attached hereto as Exhibit B and instruct Defendant to post one copy of it in each WCJ housing unit which houses medically vulnerable inmates; and (e) set a date and time for a fairness hearing approximately six weeks from the date the Court grants this motion.

Dated and jointly and respectfully submitted this 30th day of November, 2020.

s/ Daniel David Williams
Daniel David Williams
Lauren Elizabeth Groth
HUTCHINSON BLACK & COOK, LLC
williams@hbcboulder.com
groth@hbcboulder.com

Mark Silverstein
Rebecca Teitelbaum Wallace
Sara R. Neel
AMERICAN CIVIL LIBERTIES UNION-DENVER
msilverstein@aclu-co.org
rtwallace@aclu-co.org

s/ Matthew J. Hegarty
Matthew J. Hegarty, Esq.
Andrew D. Ringel, Esq.
John F. Peters, Esq.
HALL & EVANS, LLC
hegartym@hallevans.com
ringela@hallevans.com
petersj@hallevans.com
Attorneys for Defendant Sheriff Steven Reams

sneel@aclu-co.org

Darold W. Killmer
David A. Lane
Andrew Joseph McNulty
Michael Paul Fairhurst
KILLMER LANE & NEWMAN LLP
dkillmer@kln-law.com
dlane@kln-law.com
amcnulty@kln-law.com
mfairhurst@kln-law.com

David George Maxted
MAXTED LAW LLC
dave@maxtedlaw.com

Jamie Hughes Hubbard
STIMSON STANCIL LABRANCHE HUBBARD LLC
hubbard@sslhlaw.com
Attorneys for Plaintiffs Thomas Carranza, Jesus Martinez, Richard Barnum, Thomas Lewis, Michael Lewis, Colby Propes, and Chad Hunter

CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on this 30th day of November, 2020, a true and correct copy of the foregoing **JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFICATION OF A CLASS AND APPOINTMENT OF CLASS COUNSEL, AND PERMISSION TO POST CLASS NOTICE** was electronically filed with the Clerk of Court which will send notification of such filing to the following email addresses:

Daniel David Williams
Lauren Elizabeth Groth
Hutchinson Black & Cook, LLC
williams@hbcboulder.com
groth@hbcboulder.com
Attorneys for Plaintiffs Thomas Carranza, Jesus Martinez, Richard Barnum, Thomas Lewis, Michael Lewis, Colby Propes, and Chad Hunter

Mark Silverstein
Rebecca Teitelbaum Wallace
Sara R. Neel
American Civil Liberties Union-Denver
msilverstein@aclu-co.org
rtwallace@aclu-co.org
sneel@aclu-co.org
Attorneys for Plaintiffs Thomas Carranza, Jesus Martinez, Richard Barnum, Thomas Lewis, Michael Lewis, Colby Propes, and Chad Hunter

Darold W. Killmer
David A. Lane
Andrew Joseph McNulty
Michael Paul Fairhurst
Killmer Lane & Newman LLP
dkillmer@kln-law.com
dlane@kln-law.com
amcnulty@kln-law.com
mfairhurst@kln-law.com
Attorneys for Plaintiffs Thomas Carranza, Jesus Martinez, Richard Barnum, Thomas Lewis, Michael Lewis, Colby Propes, and Chad Hunter

David George Maxted
MAXTED LAW LLC
dave@maxtedlaw.com

Jamie Hughes Hubbard
Stimson Stancil LaBranche Hubbard LLC
hubbard@sslhlaw.com
Attorneys for Plaintiffs Thomas Carranza, Jesus Martinez, Richard Barnum, Thomas Lewis, Michael Lewis, Colby Propes, and Chad Hunter

s/ Marlene Wilson
Marlene Wilson, Legal Assistant