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## DECLARATION OF GILBERT TRUJILLO

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I, Gilbert Trujillo, declare the following based on my personal knowledge. I am submitting this declaration in support of the class action suit on behalf of inmates in the El Paso County Jail.

1. My name is Gilbert Trujillo and I am currently incarcerated in the El Paso County Jail on a parole hold. I am 29-years-old and have Hepatitis C. I am scared that I will get COVID-19 in this jail.

2. I entered the jail on November 26, 2020. I knew I was negative for COVID-19 when I entered the jail because I had just recently gotten tested before I arrived. I got tested because my mom, who I lived with, was exposed to someone who tested positive. Thankfully, me and my mom were both negative.

3. At intake, the jail staff took my temperature and asked if I had any COVID symptoms. I did not have fever or symptoms. They also tested me for COVID. They did a rapid test, and then another test. I asked the guard about the rapid test and he said I tested negative. I never found out what the second test said. I got one cloth mask at intake.

4. From intake, I was put in ward F-2. In ward F-2, I lived in a bay with ten other inmates, who were in very close proximity to me. There were five bunk beds in the bay. I was within a few feet from others when I slept and when we were in lockdown. I was also in close proximity to other people when in the day room, using the phones, and using the bathrooms.

5. I was nervous about the COVID outbreak at the jail and spoke to my bay-mates about it. They were nervous about it too. One of my bay-mates pointed out to me people on the ward who he said had tested positive for COVID, so I tried to stay away from those people and turn my head from them when they were talking to me. I shared common areas and a common

bathroom with approximately 70 people on my ward, so it was not always possible for me to avoid these people.

6. On Saturday, November 28, I was moved to ward D-2. Nobody told me why I was being moved. In D-2, I lived in a cell with someone who told me he had tested positive for COVID. He said that he had felt feverish, had stomach aches, and had lost his sense of taste and smell before I got to the cell. He was sleeping a lot when I was in the cell with him; I think he was still recovering. I was on lockdown in D-2 and therefore I had to be right next to my COVID-positive cellie all day long (except for the one hour when I was allowed out). I was really upset that I was being housed with someone who had tested positive. I would sit in my bed with my sheets over my face to try to protect myself from getting the virus. I also put in a grievance about being housed with someone who tested positive.

7. I was so nervous about living with a COVID-positive person that I told the deputies I was suicidal. On Tuesday, December 1, I was moved to the bottom floor of A-3, where the suicidal inmates are housed. I shared a cell with someone who said he was negative for COVID. No masks are allowed on this floor.

8. An inmate who I knew from ward D-2 was living on the top floor of A-3 when I was put on the bottom floor of the ward. During his recreation time, he was allowed to come to the open area on the bottom floor of A-3. One day, while he was out of his cell and my floor was on lockdown, he came to the window of my cell and told me that that he was housed in the top floor of A-3 because he had tested positive for COVID. He told me that everyone on the top floor of A-3 had COVID. This made me really nervous. Even though the top and bottom floors of A-3 were let out of our cells at different times, nobody wiped anything down after people from the top floor used the common tables, phones, and showers on the unit. The common

tables, phones, and showers were dirty and unsanitary, and I was nervous because people with COVID were using these items. I asked the deputies for a rag and cleaning supplies to wipe down the tables, phones, and showers, but the deputies refused to provide any cleaning supplies to me.

9. On Wednesday, December 2, I was moved to ward C-2. I was put in a cell with a person who said he had tested positive for COVID and who kept sniffing. I told the deputy I was feeling suicidal again and asked to be moved back to A-3. I was moved back after a few hours to A-3.

10. On Friday, December 4, I was moved back to ward F-2, where I had been housed initially. I am currently living in ward F-2. In ward F-2, I continue to remain within a few feet of my bay-mates at night and when in lockdown. There is no social distancing on the ward.

11. On Sunday, December 6, a new person was moved into my bay. In the middle of the night, he was vomiting and a deputy brought him a trash can to his bed so that he could vomit into it. On Monday, December 7, he was vomiting all morning. He didn't seem like he was coming off of drugs like other people who I've seen on the ward – he seemed to have flu-like symptoms and I thought he probably had COVID. He slept in the bunkbed next to mine and was a few feet away from me when we slept. At one point when I was supposed to be eating on my bunk bed due to lockdown, he was throwing up right next to me. This person was moved out of the bay that same day and I don't know where he went.

12. Also, around the same time, on either December 6 or 7, a person who came straight from intake and was put on F-2 with us was coughing and hacking all over the place. He was not in my bay, but he was in my ward, and I was near him when we were not on lockdown

and when allowed to use the common areas. I think he also might have had COVID. He was moved out of the ward a day or two after he arrived.

13. Even though these people have been moved out, I fear that it might be too late. Since they were already having symptoms in close proximity to me, I could have been exposed to the virus. I am scared that this will keep happening since COVID-19 is spreading so quickly in the jail.

14. I was issued one cloth mask by the guards. The strings on my mask broke on December 8 or 9, 2020, so I asked a deputy for a new mask. The deputy said he could not give me a new one because there are not enough masks for everyone to have a second mask. I had to improvise a jerry-rigged repair so that my mask stays on. One time, when I went to medical, I was given a blue hospital mask for when I was transported there, but when I got back to the ward, the deputy took that mask away. I asked to keep it but the deputy said no.

15. I try to always wear my mask for protection, but almost no inmates wear their masks on ward F-2. Some jail staff tell inmates to wear their masks if they are not wearing them, but other deputies don't say anything at all. Staff members have different masks than we do and their masks provide much better protection than ours do. Still, some jail staff take their masks off to talk to inmates. The deputies don't come around to collect our masks and wash them. I wash my mask myself to ensure that it's clean and to ensure that I have a mask at all times that I need it.

16. The National Guard has tested me for COVID-19 three times since I've been in general housing. The last time I was tested for COVID was on December 11, 2020. The National Guard only tests some people on ward F-2, but not others. They are testing about half of the people on the ward. It's my understanding that they are only testing people who are

negative. It worries me that only half of the ward is getting tested because this means that the other half of the ward likely already had a positive test result and I am living in close proximity to COVID-positive people. Also, some people refuse to get tested and there are no repercussions for those people. I haven't ever been told of my test results, but I assume that I am negative because I continue to get tested.

17. I am on the cleaning team for my ward, and I am in charge of scrubbing the bathrooms at night. The bathrooms can get really dirty since all of us use the same bathrooms. I keep asking for a new mophead, since I've been using the same one for the past week, but I have not gotten one. I hope I'm not just spreading more germs around.

18. I fear that I will get COVID-19 because of the jail's improper precautions. There are people in my ward in their seventies, and I'm really scared for them too.

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

I, Arielle Herzberg, certify that I reviewed the information contained in this declaration with Gilbert Trujillo via a video visit on December 11, 2020 and that he certified that the information contained in this declaration was true and correct to the best of his knowledge. I am unable to meet in-person with Mr. Trujillo as a result of the COVID-19 pandemic. *See Fenty v. Penzone*, No. CV-20-01192-PHX-SPL, Docket No. 67 (D. Ariz. Nov. 13, 2020) (approving declarations in similar circumstances); *Urdaneta v. Keeton*, No. CV-20-00654-PHX-SPL (JFM), 2020 WL 2319980, at \*5 (D. Ariz. May 11, 2020) (same).

*s/ Arielle Herzberg*  
Arielle Herzberg, Esq.  
ACLU of Colorado