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15  
 16 UNITED STATES DISTRICT COURT  
 17 SOUTHERN DISTRICT OF CALIFORNIA

18 DARRYL DUNSMORE, ERNEST  
 ARCHULETA, ANTHONY EDWARDS,  
 19 REANNA LEVY, JOSUE LOPEZ,  
 CHRISTOPHER NELSON,  
 20 CHRISTOPHER NORWOOD, and  
 LAURA ZOERNER, on behalf of  
 21 themselves and all others similarly situated,

22 Plaintiffs,

23 v.

24 SAN DIEGO COUNTY SHERIFF’S  
 DEPARTMENT, COUNTY OF SAN  
 DIEGO, CORRECTIONAL  
 25 HEALTHCARE PARTNERS, INC.,  
 LIBERTY HEALTHCARE, INC., MID-  
 26 AMERICA HEALTH, INC., LOGAN  
 HAAK, M.D., INC., SAN DIEGO  
 27 COUNTY PROBATION DEPARTMENT,  
 and DOES 1 to 20, inclusive,

28 Defendants.

Case No. 3:20-cv-00406-AJB-WVG

**DECLARATION OF ERNEST  
 ARCHULETA IN SUPPORT OF  
 PLAINTIFFS’ MOTIONS FOR  
 PRELIMINARY INJUNCTION  
 AND PROVISIONAL CLASS  
 CERTIFICATION**

Judge: Hon. Anthony J. Battaglia

Trial Date: None Set

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**DECLARATION OF ERNEST ARCHULETA**

I, Ernest Archuleta, declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. I have been incarcerated at the San Diego County Jail (“the Jail”) since July 6, 2019. I am housed at San Diego Central Jail in housing unit 7B, cell 8. My booking number is 19741878. I am 63 years old.

3. I have been sentenced to state prison in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). It is my understanding that I could be sent back to the Jail if I ever need to be present in court related to the criminal charges that resulted in me being sent to CDCR, which I am attempting to challenge. I could also be sent back to the Jail if it is necessary for me to testify in this case about the problems I experienced in the Jail. In addition, I also will parole from CDCR at some point in the future. When I parole, I will be sent back to San Diego County, which is the county in which I was convicted and where I lived prior to my arrest. When I am on parole, I can be arrested and housed in the Jail simply for allegedly violating the terms and conditions of my parole, whether or not the alleged violation constitutes a violation of a criminal law. I am concerned that, if I am sent back to the Jail, I will experience problems similar to the problems I have experienced in the past.

4. I have physical disabilities. I have degenerative disc disease and severe osteoarthritis in my left knee. My left leg is also shorter than my right. Because of these conditions, I need a wheelchair to travel longer distances.

5. I experience chronic neck pain that affects my daily life; I am unable to turn my head to the left and I cannot sit upright for extended periods of time. The level of pain consistently stays at an 8 out of 10. I also have high blood pressure and take the medication Atenolol to control it.

1           6.     I have depression and access mental health care services in the Jail. I  
2 take Trazadone and Remeron, which are both antidepressants. I also take Benadryl  
3 for allergies.

4           7.     The Jail has failed to provide me with adequate medical care. Before I  
5 entered the Jail, Dr. David J. Smith of the San Diego Comprehensive Pain  
6 Management Center had referred me for neck surgery. I arrived at the Jail in  
7 July 2019 wearing a neck brace. It is shown in the photo on my wrist band. About a  
8 month after arriving, I was placed alone in a cell on the medical floor due to  
9 vomiting and diarrhea. I was there about a week and when I returned to my regular  
10 cell my neck brace was missing. I requested it back but the doctors here ignored my  
11 requests. Not having the neck brace makes my neck pain worse.

12           8.     I informed medical staff during intake that I had a spinal injury  
13 requiring neck surgery. During that encounter, I signed a Release of Information  
14 (“ROI”) form so medical staff could obtain records from Dr. Smith. Attached  
15 hereto as **Exhibit A** is a true and correct copy of notes from my encounter with  
16 medical staff during intake. On July 30, 2019, I filed a sick call request after  
17 receiving no additional information about my surgery. A true and correct copy of  
18 that sick call request and the response from Jail medical staff is attached hereto as  
19 **Exhibit B**. The response from Jail nursing staff was an instruction that I sign  
20 another ROI to obtain my outside medical records, even though I had already done  
21 that when booked into the Jail. To this day, the Jail has not provided me a referral to  
22 a neck surgeon or even obtained my outside records from my neck specialist.  
23 Attached hereto as **Exhibit C** is an August 12, 2019 CT Scan recognizing indicating  
24 I have “severe degenerative disc disease” in my spine. Despite this evaluation, the  
25 Jail has not referred me for surgery or outside treatment, and I suffer neck pain that  
26 affects my ability to perform activities of daily life like dressing myself. The Jail  
27 also has not provided me with physical therapy to manage my neck problems,  
28 despite my requests.

1           9.     I also have degenerative conditions affecting my knees. Before I  
2 entered the Jail, a specialist recommended that I have a knee replacement. Attached  
3 hereto as **Exhibit D** is an August 6, 2019 progress note from nursing staff  
4 confirming that I was “recommended for surgical repair” of my knee. As was the  
5 case with my neck surgery, the Jail has failed to refer me to a surgeon to operate on  
6 my knee. In my first month at the Jail and again later, a physician told me that the  
7 San Diego Sheriff’s department would not pay for my knee replacement because I  
8 was awaiting transfer to CDCR custody. As a result, I have constant pain in my  
9 knee and hip, affecting my ability to walk.

10           10.    On numerous occasions, the Jail has failed to refill my daily blood  
11 pressure medication, Atenolol, for several days. Several times, this cause my blood  
12 pressure to soar high and I became flushed and had to go the medical floor. It is  
13 my understanding that the delays in receiving my medication happen because Jail  
14 medical staff forget to reorder the medication and do not have a backup supply  
15 available. Attached hereto as **Exhibit E** is a true and correct copy of a June 3, 2020  
16 encounter with medical staff, in which medical staff noted that nurses could not find  
17 a supply of my blood pressure medication in the medication room. In May 2020,  
18 the Jail ran out of my medication for over a week. They did not reorder it until I  
19 filed a sick call slip asking for my blood pressure medication. Attached hereto as  
20 **Exhibit F** is a true and correct copy of the sick call slip I filed on May 28, 2020,  
21 asking for my meds. Nursing staff responded and said they had reordered my  
22 medication that same day. They did not offer me any backup supply of the  
23 medication. Not having that medication gives me blurred vision and bad headaches,  
24 making it hard for me to engage in activities of daily living. I worry that this will  
25 happen again.

26           11.    The Jail has discriminated against me based on my disabilities. For  
27 example, the severe osteoarthritis in my left knee and left hip means I must use a  
28 wheelchair for long-distance travel. Early in my incarceration, around July or

1 August 2019, I started using crutches that I requested and received from Jail medical  
2 staff. I used them to build up strength in my legs, hoping that I would eventually be  
3 able to walk on my own. It was my own form of physical therapy because the Jail  
4 was not providing me with any. The Jail did not let me keep both my wheelchair  
5 and crutches; they confiscated my crutches while I went to yard. On September 5,  
6 2019, I filed a sick call request asking for crutches. Attached hereto as **Exhibit G** is  
7 a true and correct copy of that sick call request slip and the Jail's response. In the  
8 response, Jail staff wrote that I had to choose between having crutches or a  
9 wheelchair, stating "if you would rather use crutches, we will ... replace the  
10 wheelchair with a pair of crutches if the doctor deems such are indicated." I decided  
11 to keep a wheelchair because without it, I would be at risk of falling and seriously  
12 injuring myself. I now use my wheelchair for physical therapy; I stand behind my  
13 wheelchair and lean on it for support when trying to walk.

14 12. I have experienced other types of disability discrimination and  
15 retaliation and been denied equal access to jail programs. To review this declaration  
16 with my attorney, a deputy told me the elevator was broken so I was forced to climb  
17 a flight of stairs to get to an attorney visiting room. I was worried I would fall down  
18 the stairs, which has happened in the past. I was also worried this could be  
19 retaliation for being a named plaintiff. During the attorney visit, I observed other  
20 incarcerated wheelchair users who are not named plaintiffs in this case who came  
21 for attorney visits and used the elevator.

22 13. On another occasion, deputies did not allow me to use my wheelchair  
23 to travel to a presentencing hearing. I was waiting in the court holding area at  
24 Central. A deputy took away my wheelchair and then tried to force me to walk to  
25 the hearing. Because I cannot walk long distances on my own, the hearing had to be  
26 postponed, delaying my criminal case.

27 14. The Jail is not a safe place for people with disabilities like me. In  
28 August 2019, deputies forced me to walk up the stairs to attend a family visit, rather

1 than use the elevators in my wheelchair. When trying to walk back down the stairs,  
2 I lost my balance, fell, and struck my head. I was in pain for a couple of months  
3 after that.

4 15. The Jail is not accessible to people with disabilities in other ways. The  
5 day room tables have no cut out spaces for wheel chair access. There are no grab  
6 bars on the toilet in my cell, making it harder to use the restroom. I am informed and  
7 believe that there are six of us currently on my floor who use wheelchairs and only  
8 one ADA cell. But the wheelchair users are not currently placed in that cell.

9 16. I have also had issues receiving adequate mental health care. I sought  
10 mental health treatment shortly after being booked into the Jail in July 2019. At that  
11 time, several close family members had recently died as well as several close  
12 friends. A mental health clinician saw me in August 2019. However, I was not able  
13 to speak with a psychiatrist until four months later on December 16, 2019. Attached  
14 hereto as **Exhibit H** is my initial encounter with a psychiatrist. During the  
15 appointment, I expressed thoughts of harming myself. At that point, I was really  
16 struggling to manage my depression; I was dealing with serious charges and recent  
17 deaths in my family and among my friends. Two mental health staff members have  
18 apologized to me about the delays in my care, and explained that the Jail is severely  
19 understaffed.

20 17. My mental health has declined since Dr. Smerud – the psychologist that  
21 I met with for wellness checks and counseling – retired in or around June or July,  
22 2021. Since then, I have not been able to consistently see a mental health staff  
23 member for counseling, which has best helped me managed my depression.

24 18. When I have interacted with psychiatrists and mental health personnel,  
25 they usually visit me quickly, cell-side, where other incarcerated people can hear.  
26 Even more upsetting, typically a deputy is present for the entirety of the  
27 conversation. A deputy will stand between me and my provider. I do not trust  
28 custody staff with my personal information. The lack of confidentiality makes it



1 very difficult to express my honest feelings with mental health staff, and to feel like  
2 I am making progress in managing my depression.

3 19. I have been at the Jail for over two and a half years, but I have never  
4 been offered a dental cleaning or routine teeth examination.

5 20. During my time at the Jail, I have never received an eye examination or  
6 prescription eye glasses. I need prescription eye glasses to read signs and navigate  
7 around the Jail. Although I have asked for prescription eye glasses several times, the  
8 only glasses made available to me are magnifying reading glasses that I purchased  
9 in the canteen.

10 21. In my time at the Jail, there have been many times that I needed help  
11 but did not ask for it because there are too few deputies and they do not stop during  
12 their rounds to listen to me. Recently, I believe there has been only one deputy on  
13 our floor with 170 incarcerated people.

14 22. Since Covid-19 began, I have been locked down most of the time. I get  
15 out of my cell only about an hour or two per week. Our “yard” is an enclosed space  
16 without sunlight. I have been allowed to go there only about once a month. This  
17 isolation and lack of exercise and fresh air have taken a toll on my mental health.

18 23. I agreed to be a class representative in this case because I want to help  
19 improve the medical, dental, and mental health care at the Jail, ensure that  
20 incarcerated people with disabilities are accommodated and treated fairly, and help  
21 make the Jail safe and secure for all incarcerated people. I have been cooperating  
22 fully with my counsel and am responding to all requests for information to the best  
23 of my ability and recollection, and will continue to do so in the future. My lawyers  
24 keep me updated on the progress of this case, and I will review all materials

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26 /////

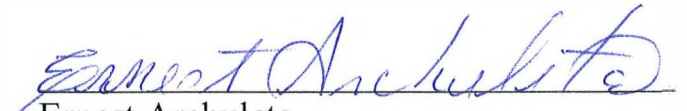
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1 provided to me and provide my input to the best of my ability. When I have  
2 questions about the case, I will ask the attorneys for help to understand everything to  
3 the best of my ability.

4 I declare under penalty of perjury under the laws of California and the United  
5 States of America that the foregoing is true and correct, and that this declaration is  
6 executed at San Diego, California this 9<sup>th</sup> day of March, 2022.

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9 Ernest Archuleta

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# **EXHIBITS A-H**

**Filed Under Seal**