

September 9, 2021

Prince George's County Law Office

Re: *Seth, et al. v. McDonough*, Case No. 20cv1028, Compliance with Settlement Agreement

Dear Counsel:

We write to inform you of several areas of non-compliance with the parties' Settlement Agreement. This letter constitutes written notice pursuant to Section U of the Agreement. Moreover, as set forth in Section U, we ask that you schedule time to meet with undersigned counsel so that we may attempt to resolve these issues. Because the Agreement allows the parties ten (10) days to resolve disputes, we ask that you provide times to meet within the next week so that we have ample time to reach resolution if possible.

In addition to the areas of non-compliance, we also highlight several issues that, although not explicitly covered by the terms of the Agreement, are key to preventing the spread of COVID-19 in the Jail. We trust you will give your attention to this concerns as well.

These issues are critically important to address promptly, particularly because it appears that there is currently a new outbreak of COVID-19 at the Jail, during which at least one detained person has been hospitalized. Undersigned counsel have learned of at least four positive cases just this month, and Unit H-4B, where those individuals are housed, had 18 individuals on it upon last review (suggesting that these individuals either have COVID-19 as well, or that COVID-positive individuals are being housed on the same unit as individuals with non-COVID medical issues).

Non-Compliance

- **Testing:** Section D of the Agreement describes the frequency with which the Jail will test inmates for COVID-19. Plaintiffs' counsel are concerned that the Jail's testing procedures are not adequate. In particular, Plaintiffs' counsel have learned that an individual was recently hospitalized for double pneumonia related to COVID-19 and tested positive at the hospital after testing negative at the Jail twice, suggesting that the Jail's testing does not properly detect COVID-19 infections. Plaintiffs expect that all testing should be performed in a manner that avoids false negative tests.
- **Medical Isolation:** Section G(1) of the Agreement states that "[t]he Director shall adhere to CDC Guidance with respect to medical isolation of detainees." The CDC Guidance states that inmates in medical isolation should have "similar access to . . . commissary as would be available in individuals' regular housing units."¹ We have learned from

¹ CDC Guidance for Correctional Facilities, *available at* <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

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individuals who were recently or are currently isolated for COVID-19 that the Jail is denying commissary to those in medical isolation. This should be corrected promptly.

Furthermore, Section H(3) states that, “[t]he Director shall ensure that detainees receive access to laundry services for clothing and bed linens on a weekly basis.” Individuals who were recently or are currently isolated for COVID-19 report that they are not receiving laundry services or fresh clothing and bed linens on a weekly basis.

- **Isolation:** Section L of the Agreement states that “[t]he Director will make all reasonable efforts to ensure that the detainees at the Jail receive at least three (3) hours of out-of-cell time each day and will communicate the same to custody staff.” Individuals across multiple housing units consistently report that they only receive one or two hours of out-of-cell time each day since the Agreement was signed.

Additional Concerns

- **Inconsistent and improper mask-wearing by staff:** During visits to the Jail in June and August, undersigned counsel has personally observed staff without masks and/or wearing masks improperly. During counsel’s most recent visit in August, a corrections officer sat unmasked in a narrow hallway behind a housing unit, and then entered an attorney visiting room with counsel, still unmasked, and coughed. During both visits, there were corrections officers without masks or with masks pulled below their noses in both the entry to the Jail and in the lobby that leads to the housing units.
- **Failure to screen on entry:** During undersigned counsel’s visits in June and August, counsel witnessed a failure to screen staff and visitors for symptoms and for temperature upon entry to the Jail. In June, no temperatures were taken, and staff did not ask any questions about symptoms. In August, there was an automatic temperature monitoring device at the entry, but counsel witnessed a corrections officer allowing a staff member to enter without a temperature check because the staff member stated that she had been in the Jail earlier that day. Again, there were no questions about symptoms at entry.
- **Population:** The Jail’s population has been well over 800 for several weeks now. Reducing the population is the most effective measure that can be taken to prevent the spread of COVID-19 in the Jail. Therefore, Plaintiffs urge the County to take steps to reduce the population, including through its pretrial services department.

We ask that you schedule a time to meet with us to address these issues at your earliest availability.

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Sincerely,

s/Katie Chamblee-Ryan
Katie Chamblee-Ryan
Counsel for Plaintiffs