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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **EASTERN DIVISION**

16 **RAUL NOVOA, JAIME CAMPOS**
17 **FUENTES, ABDIAZIZ KARIM,**
18 **AND RAMON MANCIA,** individually
and on behalf of all others similarly
situated,

19 *Plaintiffs,*

20 v.

21 **THE GEO GROUP, INC.,**
22 *Defendant.*

Civil Action No. 5:17-cv-02514-JGB-SHKx

23 **MEMORANDUM OF POINTS**
24 **AND AUTHORITIES IN**
25 **SUPPORT OF PLAINTIFFS' EX**
26 **PARTE APPLICATION FOR A**
TEMPORARY RESTRAINING
ORDER REQUIRING COVID-19
PREVENTION MEASURES FOR
NATIONWIDE HUSB CLASS

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I. INTRODUCTION

This Court has certified a class under Fed. R. Civ. P. 23(b)(2) which includes any person who is (a) civilly detained at any GEO immigration detention center in the United States and (b) subject to a GEO Housing Unit Sanitation Policy (HUSP) at any point during their detention (collectively the “HUSP Class,” and individually “Class Members”).¹ Dkt. 229 at 2.

As those appointed to represent the HUSP Class with regard to how GEO “has acted or refused to act on grounds that apply generally to the class,” Movants Raul Novoa, Jaime Campos Fuentes, Abdiaziz Karim, and Ramon Mancia request this Court order injunctive relief regarding Class Members’ exposure to Coronavirus Disease 2019 (“COVID-19”) requiring GEO to either (a) halt the use of Class Members in the provision of work or services under the HUSP program or (b) protect those detainees who provide HUSP services by (i) providing protective clothing and antiseptic supplies and (ii) conducting testing of all Class Members to detect COVID-19. Given the ongoing HUSP program, the prevalence of COVID-19 in GEO facilities, and the dire and immediate threat of death or serious illness resulting from exposure to COVID-19, the Class Members need immediate help.

II. FACTS SUPPORTING EMERGENCY INJUNCTIVE RELIEF

COVID-19 has found its way into GEO detention facilities. The living conditions encourage the rapid transmission of the virus and exposure to COVID-19 throughout the GEO facilities. And yet, GEO’s HUSPs still force Class Members to clean the

¹ The HUSP Class excludes (1) individuals detained in GEO’s family residential detention facility in Karnes City, Texas; (2) individuals detained in the Alexandria Staging Facility in Alexandria, Louisiana; (3) any individual detained in the custody of the U.S. Marshall or any other law enforcement agency at a GEO facility where the company also detains civil immigration detainees pursuant to contracts with ICE; and (4) civilly detained immigrants detainees held at the Aurora ICE Processing Center in Aurora, Colorado at any time before October 22, 2014.

1 epicenter of COVID-19’s spread at its facilities—the common spaces. GEO provides
2 no protection to these workers, so they are unnecessarily exposed to COVID-19 because
3 of GEO’s HUSP program. The circumstances call for immediate action to protect the
4 Class Members where their ward, GEO, has completely failed.

5 **A. The Coronavirus Global Pandemic and the National Emergency**

6
7 COVID-19 is a disease caused by a coronavirus that has reached pandemic status.
8 It spreads easily from person to person.² This Court has recognized the ease by which
9 COVID-19 is spread:

10 According to the United States Centers for Disease Control and
11 Prevention, the coronavirus is spread mainly through person-to-person
12 contact. More specifically, the coronavirus is spread between people who
13 are in close contact—within about 6 feet with one another through
14 respiratory droplets produced when an infected person coughs or sneezes.
15 The droplets can land in the mouths or noses, or can be inhaled into the
16 lungs, of people who are within about 6 feet of the infected person.
17 Moreover, studies have established that the coronavirus can survive up to
18 three days on various surfaces.³

19
20 As of April 5, 2020, 304,826 people in the United States have confirmed
21 diagnoses, and 7,616 Americans have died after contracting COVID-19.⁴ These
22 numbers are expected to grow exponentially. The Centers for Disease Control and

23 ² Centers for Disease Control and Prevention, *How COVID-19 Spreads*, available at
24 <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html> (last accessed Apr. 3,
25 2020).

26 ³ *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 4 (C.D. Cal. Apr. 1, 2020) (Temporary Restraining
Order and Order to Show Cause); Centers for Disease Control and Prevention, *How COVID-19
Spreads*, available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html> (last
accessed Apr. 3, 2020) (noting the virus spreads “between people who are in close contact with one
another (within about 6 feet)” and “through respiratory droplets produced when an infected person
coughs or sneezes”).

⁴ Centers for Disease Control and Prevention, *Cases in U.S.* (updated Apr. 6, 2020),
<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last accessed Apr. 6,
2020).

1 Prevention (CDC) expects that most people in the United States will be exposed to the
2 virus “[i]n the coming months.”⁵ Projections by the CDC indicate that over 200 million
3 people in the United States could be infected with COVID-19 without effective public
4 health intervention.⁶ The CDC estimates COVID-19 could kill between 200,000 and 1.7
5 million people in the United States and hospitalize between 2.4 and 21 million.⁷

6 COVID-19’s prolific growth is particularly troublesome in light of its devastating
7 health effects. COVID-19 can cause pneumonia, multi-organ failure, and death.⁸ There
8 is no vaccine for COVID-19, and there is no known medication to prevent or treat the
9 disease.⁹ The only known effective measures to reduce the risk for vulnerable people
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11 ⁵ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
12 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
13 2020); *see also Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 5 (C.D. Cal. Apr. 1, 2020)
14 (Temporary Restraining Order and Order to Show Cause) (“COVID-19 is highly contagious and has
15 a mortality rate ten times greater than influenza. Most troublesome is the fact that people infected
with the coronavirus can be asymptomatic during the two to fourteen-day COVID-19 incubation
period. During that asymptomatic incubation period, infected people are, unknowingly, capable of
spreading the coronavirus.”).

16 ⁶ Sheri Fink, *Worst-Case Estimates for U.S. Coronavirus Deaths*, N.Y. Times, Mar. 13, 2020, (updated Mar.
17 18, 2020), available at <https://www.nytimes.com/2020/03/13/us/coronavirus-deaths-estimate.html>
(last accessed Apr. 3, 2020).

18 ⁷ Sheri Fink, *Worst-Case Estimates for U.S. Coronavirus Deaths*, N.Y. Times, Mar. 13, 2020 (updated Mar.
19 18, 2020), available at <https://www.nytimes.com/2020/03/13/us/coronavirus-deaths-estimate.html>
20 (last accessed Apr. 3, 2020); *see also Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 5 (C.D. Cal.
21 Apr. 1, 2020) (Temporary Restraining Order and Order to Show Cause) (“[N]o age group is safe
from COVID-19. While older people with pre-existing conditions are the most vulnerable to
COVID-19-related mortality, young people without preexisting conditions have, also, succumbed to
COVID-19.”).

22 ⁸ Centers for Disease Control and Prevention, *What you need to know about coronavirus disease 2019*
23 *(COVID-19)*, available at [https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-](https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf)
factsheet.pdf (last accessed April 3, 2020).

24 ⁹ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
25 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed April 3,
2020); Centers for Disease Control and Prevention, *Implementation of Mitigation Strategies for Communities*
26 *with Local COVID-19 Transmission*, available at [https://www.cdc.gov/coronavirus/2019-](https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf)
ncov/downloads/community-mitigation-strategy.pdf (last accessed April 3, 2020).

1 from injury or death from COVID-19 are to prevent them from being infected in the
2 first place. Social distancing, i.e., physical separation from known or potentially infected
3 individuals, and vigilant hygiene, including washing hands with soap and water, are the
4 only known effective measures for protecting vulnerable people from COVID-19.¹⁰
5 “The science is well established—infected, asymptomatic carriers of the coronavirus are
6 highly contagious.”¹¹

7 As a result, health organizations worldwide have recognized the severity of the
8 COVID-19 outbreak. The World Health Organization declared the outbreak a “public
9 health emergency” on January 30, 2020.¹² Health and Human Services Secretary Alex M.
10 Azar II did the same a day later.¹³ On March 11, the WHO characterized COVID-19 as
11 a pandemic.¹⁴ Two days later, the President of the United States declared the COVID-
12 19 outbreak a “national emergency.”¹⁵

15 ¹⁰ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
16 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed April 3,
2020).

17 ¹¹ *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH(KS), at 11 (C.D. Cal. April 1, 2020) (Temporary
18 Restraining Order and Order to Show Cause).

19 ¹² Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
20 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020).

21 ¹³ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
22 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020).

23 ¹⁴ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
24 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020). A pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges to
infect people and can spread between people sustainably. Because there is little to no pre-existing
immunity against the new virus, it spreads worldwide. *Id.*

25 ¹⁵ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
26 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020).

1 **B. The HUSP Class face a severe risk of contracting COVID-19 as a result of**
2 **GEO’s HUSPs in each covered facility.**

3 The COVID-19 pandemic has also cast GEO’s treatment of HUSP Class
4 member in a new and dire light.

5 **1. GEO’s HUSP programs expose Class Members to the COVID-19**
6 **virus on a daily basis.**

7 The HUSPs at each GEO facility require detained immigrants to perform a wide
8 range of services that needlessly expose them to the spread of COVID-19. For example,
9 Adelanto’s HUSP requires that “each and every detainee must participate in the facility’s
10 sanitation program,” which includes cleaning “all commonly accessible areas of the
11 unit.”¹⁶ The housing unit officer develops a list of detainees each day to assign to housing
12 unit sanitation, though “[d]uring a general cleanup all detainees must participate.”¹⁷ In
13 addition, “[a]ll detainees must participate” in a mandatory, general cleanup of their
14 housing units every day.¹⁸ The policies apply to all detained immigrants at Adelanto.¹⁹
15 Moreover, GEO’s Housekeeping Plan provides that “[o]n a weekly basis or as needed,
16 all Housing Units will be subject to a total sanitation mission to assure standards are met
17 and maintained.”²⁰ This “total sanitation mission” is carried out by detained immigrants
18 pursuant to the HUSP.²¹ GEO’s HUSP program exposes Class Members to un-sanitized
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¹⁶ Dkt. 193 (Wright Decl.) at Ex. 24 (“Policy 10.3.5”) at 3, 4 (emphasis added).

23 ¹⁷ *Id.*

24 ¹⁸ Wright Decl. (Dkt. 193), at Ex. 4 (Janecka Dep.) at 87:8–88:21.

25 ¹⁹ Wright Decl. (Dkt. 193), at Ex. 4 (Janecka Dep.) at 62:11–63:8.

26 ²⁰ Wright Decl. (Dkt. 193), at Ex. 18 (Housekeeping Plan) at 2.

²¹ Wright Decl. (Dkt. 193), at Ex. 23 (“Policy 12.1.4”) at 1.

1 surfaces, floors, showers, and toilets all of which increase the threat of contracting and
2 spreading COVID-19.²²

3 Class Members cannot “opt-out” of the HUSP program to self-isolate during the
4 COVID-19 crisis.²³ GEO ensures that Class Members comply with its HUSPs by
5 threatening them with punishment.²⁴ The Supplemental Detainee Handbook at
6 Adelanto, for example, classifies “[r]efusal to clean assigned living area” as a 300-level
7 “High Moderate” offense punishable by up to 72 hours in disciplinary restriction (also
8 known as solitary confinement) or even criminal prosecution.²⁵ GEO also suspends
9 programs and recreation unless and until detainees clean the housing units, hallways,
10 kitchens, laundry, and intake area upon demand and without compensation.²⁶ Indeed,
11 GEO’s HUSP prohibits detained immigrants from participating in “any
12 activities/programs until the unit is cleaned,” and threatens that “[c]ontinued refusal to
13 clean the area will result in further disciplinary action.”²⁷

14 All immigrants detained in GEO’s civil immigration detention facilities
15 nationwide are subject to the HUSP.²⁸ Like at its Adelanto facility, GEO threatens

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17 ²² *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 5 (C.D. Cal. April 1, 2020) (Temporary Restraining
18 Order and Order to Show Cause) (“Because of the highly contagious nature of the coronavirus and
19 the, relatively high, mortality rate of COVID-19, the disease can spread uncontrollably with
20 devastating results in a crowded, closed facility, such as an immigration detention center.”).

21 ²³ Wright Decl. (Dkt. 193) at Ex. 24 (“Policy 10.3.5”) at 3.

22 ²⁴ Dkt. 192-3 (Novoa Decl.) ¶ 13; Dkt. 192-4 (Campos Fuentes Decl.) ¶¶ 14, 15; Dkt. 192-5 (Karim
23 Decl.) ¶¶ 10–13; Dkt. 192-6 (Mancia Decl.) ¶¶ 10–11; Dkt. 192-8 (Munoz Decl.) ¶¶ 5, 6, 9; Dkt. 192-
24 7 (Marwaha Decl.) ¶¶ 11–13.

25 ²⁵ Wright Decl. (Dkt. 193), at Ex. 16 (Supp. Detainee Handbook) at 29; Ex. 4 (Janecka Dep.) at 67:17–
26 68:14.

²⁶ Wright Decl. (Dkt. 193), at Ex. 4 (Janecka Dep.) at 232:11-23; *see also* Karim Decl. (Dkt 192-5) ¶ 11.

²⁷ Wright Decl. (Dkt. 193), at Ex. 24 (Policy 10.3.5) at 3.

²⁸ *See* Dkt. 174 at 7; 8; 12; 13 (conceding the existence of a nationwide corporate HUSP); Wright Decl.
(Dkt. 193), at Ex. 34 (Requests for Admission) at Nos. 11-22 (admitting that GEO operates HUSPs
at twelve civil immigration detention centers nationwide). According to Acting ICE Director Matt

1 detained immigrants nationwide with serious harm or abuse of legal process for refusing
2 or failing to perform uncompensated work pursuant to each HUSP.²⁹ As a result of
3 GEO’s policies, which compel participation by “each and every detainee” in cleaning
4 and housekeeping activities for “all commonly accessible areas of the unit” in which they
5 are housed, Dkt. 223 at 6, the continuation of the HUSP program threatens thousands
6 of Class Members’ life, health, and well-being every day.³⁰

7 **2. Class Members are especially susceptible to immediate and**
8 **significant harm from contracting COVID-19.**

9 Class Members at GEO’s detention facilities are highly likely to contract COVID-
10 19 and suffer severe health effects as a result of the HUSPs.

11 COVID-19 is a disease that spreads easily “[b]etween people who are in close
12 contact with one another (within about 6 feet),” and does so “[t]hrough respiratory
13 droplets produced when an infected person coughs or sneezes.”³¹ Not surprisingly, the
14 CDC has concluded immigration detention centers—such as those in which GEO
15 enforces the HUSP program—are particularly susceptible to the spread and contraction
16 of COVID-19 because they are congregate environments, i.e., places where people live
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19 _____
20 Albence, the Adelanto Facility is “representative of all our detention centers. That is how we run our
21 detention facilities.” Fox News, *Fox and Friends*, at 4:55–5:13 (July 26, 2019), available at
22 <https://www.youtube.com/watch?v=SdgN4jfxiqU&feature=youtu.be>.

21 ²⁹ See Wright Decl. (Dkt. 193), at Ex. 25 (Northwest Detention Center Detainee Handbook) at 18
22 (classifying “[r]efusal to clean assigned living area” as a 300-level “High Moderate” offense punishable
23 by up to 72 hours in disciplinary restriction—i.e., solitary confinement—or even criminal
24 prosecution); Ex. 34 (Requests for Admission) at No. 24.

23 ³⁰ Wright Decl. (Dkt. 193), at Ex. 4 (Janecka Dep.) at 190:5-191:6; Dkt. 45, at 6.

24 ³¹ See Centers for Disease Control and Prevention, *How COVID-19 Spreads*, available at
25 <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html> (last accessed April 3,
26 2020); Centers for Disease Control, *Interim Recommendations for US Households with Suspected/Confirmed
Coronavirus Disease 2019*, available at [https://www.cdc.gov/coronavirus/2019-
ncov/prepare/cleaning-disinfection.html](https://www.cdc.gov/coronavirus/2019-ncov/prepare/cleaning-disinfection.html) (last accessed Apr. 3, 2020).

1 and sleep in close proximity.³² Infectious diseases like COVID-19 that are
2 communicated by air or touch are more likely to spread in these environments.³³ People
3 who are confined to these congregate environments find it virtually impossible to engage
4 social distancing and hygiene practices as urged by the CDC in order to mitigate the risk
5 of transmission.³⁴

6 There are “many opportunities for COVID-19 to be introduced into a
7 correctional or detention facility, including daily staff ingress and egress; transfer of
8 incarcerated/detained persons between facilities and systems, to court appearances, and
9 to outside medical visits; and visits from family, legal representatives, and other
10 community members”—a circumstance exacerbated by the potential for “high turnover,
11 admitting new entrants daily who may have been exposed to COVID-19 in the
12 surrounding community or other regions.”³⁵

13 Another court from this District has taken judicial notice of the risk of exposure
14 to COVID-19 and lack of safeguards at the Adelanto facility:

15 At Adelanto, a holding area can contain 60 to 70 detainees, with a large
16 common area and dormitory-type sleeping rooms housing four or six
17 detainees with shared sinks, toilets and showers. Guards regularly rotate
18 through the various holding areas several times a day. At meal times—
19 three times a day—the 60 to 70 detainees in each holding area line up
together, sometimes only inches apart, in the cafeteria. The guards,

20 ³² See Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available
21 at <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020).

22 ³³ *Id.*

23 ³⁴ See Centers for Disease Control and Prevention, *How to Protect Yourself*, available at
24 <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html> (last accessed Apr. 3,
2020).

25 ³⁵ Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019*
26 *(COVID-19) in Correctional and Detention Facilities* (updated March 23, 2020), available at
[https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)
[correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (last accessed Apr. 3, 2020).

1 detainees and cafeteria workers do not regularly wear gloves or masks to
2 prevent the spread of the coronavirus. While detainees have access to
3 gloves, there is no requirement that they wear them. Detainees do not
4 have access to masks or hand sanitizer—though thorough hand washing
could be more effective than hand sanitizers at preventing the spread of
the coronavirus.³⁶

5 The risk of exposure at Adelanto is not unique among GEO’s facilities. Indeed,
6 similar COVID-19 spread has happened to the Class Members at GEO’s Pine Prairie
7 ICE Processing Center in Pine Prairie, Louisiana. ICE officials transferred an inmate
8 from the Federal Correctional Center in Oakdale, Louisiana,³⁷ where five inmates have
9 died from COVID-19 in less than a week.³⁸ The virus is so widespread that Bureau of
10 Prisons officials ceased testing and simply assumed everyone is presumptively positive,³⁹
11 and Attorney General Barr declared an emergency urged the BOP to immediately de-
12 populate the prison.⁴⁰

13 Some people are especially vulnerable to COVID-19. In particular, older adults
14 and people with serious underlying medical conditions like heart disease, diabetes, and
15
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17 ³⁶ *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 5 (C.D. Cal. April 1, 2020) (Temporary Restraining
18 Order and Order to Show Cause).

19 ³⁷ Maria Clark, “ICE detainee test positive for COVID-19 in Pine Prairie, Louisiana”, The Daily
20 Advertiser, Apr. 3, 2020, available at <https://www.theadvertiser.com/story/news/american-south/2020/04/03/coronavirus-ice-detainee-tests-positive-pine-prairie-louisiana/2946110001/>.

21 ³⁸ Caroline Habetz, “Fifth inmate at Oakdale federal prison dies from COVID-19”, KPLC, Apr. 3,
22 2020 available at <https://www.kplctv.com/2020/04/03/fifth-inmate-oakdale-federal-prison-dies-covid-/>.

23 ³⁹ Nicholas Chrastil, “Louisiana federal prison no longer testing symptomatic inmates for coronavirus
24 due to ‘sustained transmission’”, The Lens, Mar. 31, 2020 available at
<https://thelensnola.org/2020/03/31/louisiana-federal-prison-no-longer-testing-symptomatic-inmates-for-coronavirus-due-to-sustained-transmission/>.

25 ⁴⁰ Memorandum for Director of Bureau of Prisons from William G. Barr re Increasing the Use of
26 Home Confinement at Institutions Most Affected by COVID-19, Apr. 3, 2020, available at
<https://www.politico.com/f/?id=00000171-4255-d6b1-a3f1-c6d51b810000>.

1 lung disease are at a higher risk of getting sick from COVID-19.⁴¹ The CDC estimates
2 that for people over the age of 65 or with medical conditions that increase the risk of
3 serious COVID-19 infection, shortness of breath can be severe.⁴² Eight out of 10 deaths
4 attributed to COVID-19 have been in adults 65 and older.⁴³ For adults between 65–84
5 years old that contract COVID-19, the CDC estimates that 31–59% required
6 hospitalization, 11–31% required admission to an intensive care unit, and 4–11% died.⁴⁴
7 For adults 85 years old or older, 31–70% required hospitalization, 6–29% required
8 admission to an intensive care unit, and 10–27% died.⁴⁵ Eighty percent of all COVID-
9 19 deaths in the United States have been among adults 65 years of age or older.⁴⁶ And,
10 even for those not in a medically vulnerable population, the risks posed by COVID-19
11 are severe. COVID-19 creates serious illness in 16% of all cases.⁴⁷ Though older adults
12 account for the vast majority of deaths, 38% of those hospitalized for COVID-19 have
13 been people between 20–54 years old.⁴⁸

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16 ⁴¹ Centers for Disease Control and Prevention, *People Who Are at Higher Risk for Severe Illness*, available
17 at <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>
(last accessed Apr. 3, 2020).

18 ⁴² *Id.*

19 ⁴³ Centers for Disease Control and Prevention, *Older Adults*, available at
20 [https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications/older-](https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications/older-adults.html)
adults.html (last accessed Apr. 3, 2020).

21 ⁴⁴ *Id.*

22 ⁴⁵ *Id.*

23 ⁴⁶ Centers for Disease Control and Prevention, *Situation Summary* (updated Mar. 26, 2020), available at
24 <http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 3,
2020).

25 ⁴⁷ *Id.*

26 ⁴⁸ CDC COVID-19 Response Team, *Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19) — United States, February 12–March 16, 2020*, Morbidity & Mortality Wkly. Report (MMWR), available at <http://dx.doi.org/10.15585/mmwr.mm6912e2> (last accessed Apr. 3, 2020).

1 HUSP Class Members’ risk of exposure exceeds the normal risk an inhabitant
2 would face in congregative environments. Rather than simply live in close quarters
3 (which presents a risk in and of itself), **Class Members must clean these common**
4 **areas day after day without protection from COVID-19 . By design, GEO requires**
5 **Class Members to enter and clean common areas by coercion and, thereby,**
6 **risks—nearly guarantees—exposure to COVID-19.** As this Court recently noted,
7 “[t]he Government, here, cannot say, with any degree of certainty, that no one—staff or
8 detainee—at Adelanto has not been, or will not be, infected with the coronavirus.”⁴⁹

9 **3. GEO has failed to protect Class Members while requiring**
10 **adherence to the HUSP Program.**

11 Class Members cannot rely on GEO to protect them from the risk of contracting
12 COVID-19 through participation in the HUSP program because GEO regularly fails to
13 provide detainees basic personal hygiene items—even in this time of unprecedented
14 crisis. For instance, at the LaSalle Detention Facility, Class Member Griselda del Bosque
15 reports that “[v]ery little has changed in the facility to address the virus.”⁵⁰ And Ms. Del
16 Bosque confirms that “[t]he prisoners are the ones who do the cleanings in the dorms”
17 but that the conditions fall well short of CDC guidelines for COVID-19 because Class
18 Members “clean what [they] can with what they [i.e., GEO] give us, [but] usually [they]
19 just have to use soap and water” or “one towel . . . to clean everything.”⁵¹ Even after the
20 advent of COVID-19, GEO has failed to provide sufficient cleaning materials: “We
21 sometimes don’t have soap or toilet paper for days if it’s not replaced. We were told by
22

23 ⁴⁹ *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 11.

24 ⁵⁰ See Decl. of Griselda Del Bosque (“Del Bosque Decl.”), ¶ 5, *Dada v. Witte*, ECF No. 2-8 (E.D. La.)
25 filed Apr. 1, 2020, available at <https://ccrjustice.org/sites/default/files/attach/2020/04/2-8%20Griselda%20Del%20Bosque.pdf>, attached as Exhibit A to the Declaration of Daniel H.
26 Charest (Charest Decl.).

⁵¹ See del Bosque Decl., ¶ 8.

1 a guard that the soap we are given in the bathrooms is for hands and body only but that
2 it's not disinfecting.”⁵²

3 This is not an isolated incident. Class Members report facing similar shortages of
4 basic necessities at other GEO facilities elsewhere in the United States:

- 5 • “Conditions in our dorm are unsanitary. We don’t have any sinks
6 to clean our bowls, so people clean their bowls in the bathrooms. I
7 work cleaning the showers in my dorm for one dollar a day. I am
8 not given any masks. Sometimes I run out of cleaning supplies and
9 have to wash the floor of the showers with shampoo. The showers
10 are only cleaned twice a day.”⁵³
- 11 • “Counting me, there are currently 10 people being detained
12 together [in the same room]. We sleep in bunk beds. . . . Staff does
13 not clean the room where we stay. We ask in the morning for
14 disinfectant to clean with. I use shampoo to wash my hands with,
15 but we do have bars of white soap. . . . We were told about COVID-
16 19 when [GEO staff] took away the [roommate] detainee for
17 quarantine. We asked for hand sanitizer but were told to use
18 disinfectant spray. Staff had on masks, but detainees cannot get
19 masks. . . . I clean everything because I fear getting an infection, but
20 not everyone I am detained with is as careful about infection as I
21 am.”⁵⁴
- 22 • “Morales Diaz said she saw a Cuban detainee yelling at a guard for
23 not wearing a mask or gloves. The guard ignored the detainee.
24 Often, media is denied to the women. ‘They refuse to clean the
25 living areas to protest that we don’t have proper cleaning supplies,’
26

⁵² See del Bosque Decl., ¶ 7.

⁵³ See, e.g., Decl. of Sonia Lemus Tejada Dejaso (“Tejada Dejaso Decl.”), ¶¶ 1, 8-9, *Dada v. Witte*, ECF No. 2-19 (E.D. La.) filed Apr. 1, 2020 (from LaSalle ICE Processing Center in Jena, Louisiana), available at <https://ccrjustice.org/sites/default/files/attach/2020/04/2-19%20Sonia%20Lemus%20Tejada%20Dejaso.pdf>, attached as Exhibit B to Charest Decl.

⁵⁴ Declaration of Abby Frazer (“Frazer Decl.”), ¶¶ 30, 35-37, 40-42 (describing GEO’s Denver Contract Detention Facility in Aurora, Colorado), attached as Exhibit C to Charest Decl.

1 Morales Diaz said. “The staff punishes them by turning off the
2 TV.”⁵⁵

3 When Class Members attempt to raise concerns about COVID-19, GEO has
4 reacted with brutal force and consistent failure to address detainees’ lack of access to
5 basic hygienic necessities like soap and hand sanitizer. Following a COVID-19
6 presentation at LaSalle, GEO responded by tear-gassing as many as 80 detained
7 immigrant women.⁵⁶ GEO reportedly approved similar uses of force at two other
8 facilities the same week.⁵⁷ These deprivations and unlawful threats and uses of force by
9 GEO are consistent with those alleged by the Class Representatives⁵⁸ and others at
10 Adelanto.⁵⁹

11 ⁵⁵ Debbie Nathan, “Women in ICE Detention, Fearing Coronavirus, Make Video to Protest Unsafe
12 Conditions,” *The Intercept*, Mar. 30, 2020, (addressing conditions at the South Louisiana ICE
Processing Center), available at <https://theintercept.com/2020/03/30/coronavirus-ice-detention>.

13 ⁵⁶ *See generally* Decl. of Mariel Villarreal, *Dada v. Witte*, ECF No. 2-32 (E.D. La.) filed Apr. 1, 2020,
14 available at <https://ccrjustice.org/sites/default/files/attach/2020/04/2-32%20Mariel%20Villarreal.pdf>, attached as Exhibit D to Charest Decl.; Tejada Dejaso Decl., ¶¶ 9-
15 12. *See also* Camilo Montoya-Galvez, “Don’t let us die: Women in ICE custody plead for release
amid coronavirus pandemic,” *CBS News*, Apr. 3, 2020, available at
16 <https://www.cbsnews.com/news/coronavirus-women-ice-custody-louisiana-release-covid-19/>.

17 ⁵⁷ Hamed Aleaziz, “Immigrants Afraid of the Outbreak Are Protesting Inside ICE Facilities,” *BuzzFeed*
18 *News*, Mar. 26, 2020, available at
[https://www.buzzfeednews.com/article/hamedaleaziz/immigrants-coronavirus-outbreak-ice-](https://www.buzzfeednews.com/article/hamedaleaziz/immigrants-coronavirus-outbreak-ice-protests)
19 *protests* (“Since Monday, guards at three ICE detention facilities in Louisiana and Texas — LaSalle
ICE Processing Center, Pine Prairie ICE Processing Center, and South Texas ICE Processing Center
20 — have used force to quell inmate protests. Advocates and attorneys have reported that ICE
detainees have had limited access to soap and are worried that the coronavirus, which causes COVID-
21 19, could spread undetected, leaving those with underlying medical conditions and the elderly at
risk.”).

22 ⁵⁸ *See also* Novoa Decl. (Dkt 192-3) ¶ 14; Campos Fuentes Decl. (Dkt 192-4) ¶ 11; Karim Decl. (Dkt
23 192-5) ¶ 17; Mancia Decl. (Dkt 192-6) ¶ 14; Marwaha Decl. (Dkt 192-7) ¶ 17.

24 ⁵⁹ Tom Dreisbach, “Exclusive: Video Shows Controversial Use of Force Inside An ICE Detention
Center,” *NPR*, February 6, 2020, available at
25 [https://www.npr.org/2020/02/06/802939294/exclusive-video-shows-controversial-use-of-force-](https://www.npr.org/2020/02/06/802939294/exclusive-video-shows-controversial-use-of-force-inside-an-ice-detention-center)
inside-an-ice-detention-center. *See also* Memorandum and Order Granting in Part and Denying in
26 Part Motions for Summary Judgment, *Rivera-Martinez v. The GEO Grp., Inc.*, Case No. ED CV 18-
1125-SP, ECF No. 160 at (C.D. Cal. Jan. 7, 2020).

1 Even before the onset of COVID-19, GEO’s detention facilities had a history of
2 inadequate medical care. For example, following an unannounced inspection at one of
3 GEO’s detention facilities, OIG issued a report on September 27, 2018 identifying “a
4 number of serious issues that violate ICE’s 2011 [PBNDS] and pose significant health
5 and safety risks at the facility.”⁶⁰ The report concluded that detainees do not have timely
6 access to proper medical care.⁶¹ The OIG described wait times for “acute illnesses,”
7 which would include illnesses like COVID-19, as “excessively long.” Thus it is
8 reasonable to expect COVID-19 will also readily spread in detention centers, especially
9 when people cannot engage in proper hygiene and isolate themselves from infected
10 residents or staff.⁶²

11 III. ARGUMENT

12 Movants herein seek limited, temporary relief to protect the health and safety of
13 the Class Members. The relief they seek will also protect the health and safety of GEO
14 personnel and healthcare workers at GEO’s detention facilities as well and the healthcare
15 infrastructure and communities where these facilities are located. Specifically, Movants
16 seek an order requiring GEO to either (a) halt the use of Class Members in the provision
17 of work or services under the HUSP program; or (b) protect those detainees who
18 provide HUSP services by (i) providing protective clothing and antiseptic supplies and
19 (ii) conducting testing of all Class Members to detect COVID-19.
20
21

22 ⁶⁰ Wright Decl. (Dkt. 193), at Ex. 27 (OIG-18-86, “Management Alert – Issues Requiring Action at the
23 Adelanto ICE Processing Center in Adelanto, California”).

24 ⁶¹ *Id.* at 7.

25 ⁶² *See* Novoa Decl. (Dkt 192-3) at ¶ 15 (GEO does not provide sufficient personal hygiene items; these
26 items must be purchased at the commissary); Campos Fuentes Decl. (Dkt 192-4) at ¶ 11 (same); Karim
Decl. (Dkt 192-5) at ¶ 17 (same); Mancina Decl. (Dkt 192-6) at ¶ 14 (same); Munoz Decl. (Dkt 192-8)
at ¶ 13 (same); Marwaha Decl. (Dkt 192-7) at ¶ 17 (same).

1 **A. The Court should grant injunctive relief to protect Class Members**
2 **during the pendency of this action.**

3 The purpose of a TRO is to preserve the status quo and prevent irreparable harm
4 before a preliminary injunction hearing is held.⁶³ On a motion for a temporary restraining
5 order, the Movant “must establish that he is likely to succeed on the merits, that he is
6 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of
7 equities tips in his favor, and that an injunction is in the public interest.”⁶⁴ A temporary
8 restraining order may issue where “serious questions going to the merits [are] raised and
9 the balance of hardships tips sharply in [plaintiff’s] favor.”⁶⁵ To succeed under the
10 “serious question” test, Movants must show that they are likely to suffer irreparable
11 injury and that an injunction is in the public’s interest.⁶⁶

12 **1. Movants are likely to succeed on the merits because compelled**
13 **participation in the HUSP program under threat of serious illness**
14 **or death, or violent reprisals from guards, violates the TVPA’s**
15 **forced labor prohibition.**

16 To establish a claim of forced labor under the federal Trafficking Victims
17 Protection Act (TVPA), Movants must show that GEO “knowingly provide[d] or
18 obtain[ed]” their labor “by means of any scheme, plan, or pattern intended to cause the
19 person to believe that, if that person did not perform such labor or services, that person
20 or another person would suffer serious harm or physical restraint.”⁶⁷ Serious harm is

21 _____
22 ⁶³ *Granny Goose Foods*, 415 U.S. 423, 439 (1974); see also *Reno Air Racing Ass’n v. McCord*, 452 F.3d 1126,
1130–31 (9th Cir. 2006).

23 ⁶⁴ *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stublberg Int’l Sales Co. v. John D. Brush &*
24 *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary
restraining order standards are “substantially identical”).

25 ⁶⁵ *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (citation omitted).

26 ⁶⁶ *Id.* at 1132.

⁶⁷ 18 U.S.C. § 1589 (a).

1 defined as “any harm, whether physical or nonphysical, including psychological,
2 financial, or reputational harm, that is sufficiently serious, under all the surrounding
3 circumstances, to compel a reasonable person of the same background and in the same
4 circumstances to perform or to continue performing labor or services in order to avoid
5 incurring that harm.”⁶⁸ This statutory language makes clear that the first inquiry under
6 the federal forced labor statute is GEO’s intent in threatening harm.⁶⁹ To determine if
7 the harms threatened were serious, the statute employs a reasonable person test: Was
8 the threat sufficiently serious that a reasonable person of the same background and
9 circumstances would feel compelled to continue working?⁷⁰

10 A reasonable likelihood of success exists here: GEO’s acquisition of free labor by
11 threatening Class Members with reprisal violates the TVPA. GEO forces the HUSP
12 Class to perform uncompensated janitorial and maintenance work in common areas of
13 its detention facilities.⁷¹ GEO obtains this free labor by threatening HUSP Class

16
17 ⁶⁸ 18 U.S.C. § 1589 (c) (emphasis added). The California Trafficking Victims Protection Act, Cal. Civ.
18 Code § 52.5, requires the same reasonable person analysis. *See People v. Halim*, 14 Cal. App. 5th 632,
643 (2017), *reh’g denied* (Sept. 12, 2017), *review denied* (Nov. 29, 2017), *cert. denied sub nom. Halim v.*
California, 138 S. Ct. 1564 (2018); *see also* Cal. Penal Code § 236.1(h)(3).

19 ⁶⁹ *See U.S. v. Dann*, 652 F.3d 1160, 1170 (9th Cir. 2011) (“The linchpin of the serious harm analysis
20 under § 1589 is not just that serious harm was threatened but that the employer intended the victim
to believe that such harm would befall her.”).

21 ⁷⁰ *See id.*; *see also Nuñez-Tanedo v. East Baton Rouge Parish School Board*, 2011 WL 7095434, (C.D. Cal. Dec.
22 12, 2011) (Kronstadt, J.) (certifying a federal TVPA class where the putative class members shared
the same background and circumstances such that a reasonable person standard could be used to
23 determine whether it was the defendants’ scheme that ultimately compelled the plaintiffs to work).

24 ⁷¹ *See* Dkt. 174 at 7, 8, 12, 13 (discussing GEO’s HUSPs); Dkt. 193-18 (Housekeeping Plan); 193-23
(Adelanto Sanitation Procedures); 193-24 (Adelanto Housing Unit Post Orders); Dkt. 200 (Answer)
25 ¶ 76 (admitting detained immigrants are not paid to perform labor under the HUSPs); Dkt. 210-1
(Martin Dep.) at 130:11–138:8; 148:7–23, 155:17–161:16 (discussing the HUSP at GEO’s Aurora
26 ICE Processing Center); Dkt. 210-3 (ICE Decl.) ¶ 21; Dkt. 210-4 (GEO 30(b)(6) Dep.) at 132:18–
136:4.

1 Members with “serious harm,” including solitary confinement, disciplinary housing
2 transfers, loss of privileges, referral to ICE, and criminal prosecution.⁷²

3 When asked to opine on the applicability of the TVPA on PBNDS-sanctioned,
4 voluntary work programs—programs less violative than GEO’s non-PBNDS HUSP
5 program—the U.S. Court of Appeals for the Eleventh Circuit concluded that coercion
6 of labor violates the TVPA even when the coercion happens in a civil detention center:

7 If CoreCivic, or any other private for-profit contractor, actually forces
8 detainees to provide labor (whether through a work program or not)
9 through any of the illegal coercive means explicitly proscribed by the
10 TVPA, it has “obtain[ed] the labor or services of a person” in violation of
11 the TVPA. Again, nothing in the text of the statute excludes federal
12 contractors providing immigration detention services from liability under
13 the TVPA, even when that liability might arise out of the operation of a
14 federally mandated work program. And nothing in the PBNDS permits
15 CoreCivic, or other private contractors operating immigration detention
16 facilities, to force detainees to perform labor (beyond personal
17 housekeeping tasks), and certainly not through the illegal coercive means
18 explicitly listed in the TVPA.⁷³

15 The “personal housekeeping tasks” referred to in *Barrientos* expressly exclude the
16 tasks required under GEO’s HUSP program: the point of the HUSP-related claim is that
17 GEO demands Class Members to work and perform janitorial services in common areas
18 not included within the “personal housekeeping tasks” condoned by ICE through
19 Section 5.8.V.C of the PBNDS. When GEO enforces the HUSP program through illegal
20

21 ⁷² See Dkt. 193-16 at 29 (Adelanto Supp. Detainee Handbook); Dkt. 193-25 (Northwest Detention
22 Center Detainee Handbook); Dkt. 193-34 (RFAs) at No. 24 (admitting that at each facility, “[r]efusal
23 to clean assigned living area” is classified as a 300-level “High Moderate” offense punishable by up
24 to 72 hours in disciplinary restriction); Dkt. 206-1 (Campos Fuentes Dep.) at 75:12–24 (“GEO or
25 the officers would lock us up in our rooms or cells until somebody went to do it.”); Dkt. 206-2
26 (Novoa Dep.) at 44:15–18 (“I wouldn’t get some things that I needed. My bunk was scattered. They
would go through my bunk.”); Dkt. 206-4 (Karim Dep.) at 88:23–90:3 (“[I]f I don’t do those things,
it will affect my case; I was not going to get bond; I was not going to get released.”); Dkt. 210-2
(Saavedra-Roman testimony) at 4.

⁷³ *Barrientos et al. v. CoreCivic, Inc.*, No. 18-15081, at 17-18 (Feb. 28, 2020 11th Cir.) (Slip Op.) (emphasis added).

1 coercive means, GEO violates the TVPA. GEO thus violates the TVPA every day in
2 each of the covered facilities as a fundamental business practice.⁷⁴

3 Plaintiffs are likely to prevail on the merits of their claim that GEO violates the
4 TVPA, so this factor weighs in favor of the Court granting a temporary restraining order.

5 **2. Class Members face immediate, irreparable harm because the**
6 **HUSP program puts Class Members in a heightened risk of**
7 **exposure to COVID-19, a serious, potentially life threatening**
8 **incurable disease.**

9 To show irreparable harm a plaintiff “demonstrate immediate threatened injury
10 as a prerequisite to preliminary injunctive relief.”⁷⁵ “Irreparable harm is the single most
11 important prerequisite for the issuance of a preliminary injunction.”⁷⁶ This case presents

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13
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15 ⁷⁴ And such threats, as documented in the above-cited declarations and evidence, also violate the
16 detainees’ constitutional rights given the threat to their health and safety.

17 When the Government detains a person for the violation of an immigration law, the
18 person is a civil detainee, even if he has a prior criminal conviction. . . . Moreover,
19 under the Fifth Amendment’s Due Process Clause, a civil detainee cannot be subjected
20 to conditions that amount to punishment. . . . Moreover, the Government may not
21 ignore a condition of confinement that is sure or very likely to cause serious illness. A
civil detainee’s constitutional rights are violated if a condition of his confinement
places him at substantial risk of suffering serious harm, such as the harm caused by a
pandemic. . . . Inadequate health and safety measures at a detention center cause
cognizable harm to every detainee at that center.

22 *Hernandez v. Wolf*, No. 5:20-cv-00617-TJH (KS), at 8-9 (C.D. Cal. April 1, 2020) (Temporary Restraining
23 Order and Order to Show Cause).

24 ⁷⁵ *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988).

25 ⁷⁶ *Spark Indus., LLC v. Kretek Int’l, Inc.*, No. CV 14-5726-GW(ASX), 2014 WL 12600262, at *3 (C.D.
26 Cal. July 29, 2014) (citations omitted); see also 11A Charles A. Wright & Arthur R. Miller, *Federal
Practice and Procedure* § 2948.1 (3d ed. rev. 2014) (“Perhaps the single most important prerequisite
for the issuance of a preliminary injunction is a demonstration that if it is not granted the applicant
is likely to suffer irreparable harm before a decision on the merits can be rendered.”).

1 a paradigmatic example of an imminent threats to health and safety presenting
2 irreparable harm.⁷⁷

3 More and more evidence of irreparable harm develops each day as the virus
4 spreads throughout the world, the country, and GEO facilities. Simply put, **Class**
5 **Members risk illness and death from participation in the HUSP.** The argument is
6 as stark as that. By requiring Class Members to participate in the HUSPs at all, let alone
7 without personal protective equipment, **GEO exposes Class Members to potential**
8 **death and serious illness on a daily basis.** COVID-19 exists in GEO's facilities.⁷⁸
9 And cleaning those facilities, in particular the common areas where detainees gather and
10 interact, without protective equipment nearly guarantees exposure to COVID-19.

11 The CDC has advised that, when disinfecting common areas, cleaning staff
12 should "wear disposable gloves and gowns for all tasks in the cleaning process."⁷⁹ The
13 CDC also recommends that cleaning staff wash their hands often using soap or, if soap

14
15 ⁷⁷ See *Harris v. Bd. of Supervisors, Los Angeles Cty.*, 366 F.3d 754, 756 (9th Cir. 2004); *Unknown Parties v.*
16 *Johnson*, No. CV-15-00250-TUC-DCB, 2016 WL 8188563, at *15 (D. Ariz. No. 18, 2016), *aff'd sub*
17 *nom Doe v. Kelly*, 878 F.3d 710 (9th Cir. 2017); *Jones v. Tex. Dep't. of Crim. Justice*, 880 F.3d 756, 760 (5th

18 ⁷⁸ Judge John E. Jones, III recently addressed the immediate harm and found it exists:

19 Public health officials now acknowledge that there is little that can be done to stop the
20 spread of COVID-19 absent effective quarantines and social distancing procedures.
21 But Petitioners are unable to keep socially distant while detained by ICE and cannot
22 keep the detention facilities sufficiently clean to combat the spread of the virus. Based
upon the nature of the virus, the allegations of current conditions in the prisons, and
Petitioners' specific medical concerns, detailed below, we therefore find that
Petitioners face a very real risk of serious, lasting illness or death. There can be no
injury more irreparable.

23 *Thakker v. Doll*, No. 1:20-cv-00480-JEJ, Memorandum and Order (M.D. Pa. Mar. 31, 2020) (ordering
24 immediate release of 13 medically vulnerable ICE detainees) available at
[https://aclupa.org/sites/default/files/field_documents/memo_and_order_granting_tro_and_relea](https://aclupa.org/sites/default/files/field_documents/memo_and_order_granting_tro_and_release.pdf)
25 [se.pdf](https://aclupa.org/sites/default/files/field_documents/memo_and_order_granting_tro_and_relea).

26 ⁷⁹ Centers for Disease Control and Prevention, *Environmental Cleaning and Disinfection Recommendations*
(updated Apr. 1, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (last accessed Apr. 3, 2020).

1 is not available, hand sanitizer.⁸⁰ But GEO has not even provided hand soap to Class
2 Members, let alone hand sanitizer, disposable gloves, gowns, or any other protective
3 equipment recommended or required by the CDC to protect individuals like Class
4 Members from COVID-19.⁸¹ By forcing Class Members to clean common areas without
5 proper protective equipment and refusing to exempt detainees who are particularly
6 susceptible to COVID-19, GEO increases the risk of additional deaths—“an
7 irremediable and unfathomable” harm.⁸²

8 Moreover, Class Members include older adults and people with underlying
9 medical conditions that increase their likelihood of severe illness or death if they contract
10 COVID-19.⁸³ And those patients in high-risk categories who do not die from COVID-
11 19 should expect a prolonged recovery, including the need for extensive rehabilitation.
12 For these reasons, public health experts have concluded that people with these
13 characteristics in institutional settings such as immigration detention centers are at grave
14 risk of severe illness and death.

15 Nor is social distancing—the other primary defense against contracting COVID-
16 19—available to Class Members.⁸⁴ As noted, GEO’s immigration detention centers are

17 ⁸⁰ Centers for Disease Control and Prevention, *Environmental Cleaning and Disinfection Recommendations*
18 (updated Apr. 1, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (last accessed Apr. 3, 2020).

19 ⁸¹ Novoa Decl. (Dkt 192-3) ¶ 14; Campos Fuentes Decl. (Dkt 192-4) ¶ 11; Karim Decl. (Dkt 192-5) ¶
20 17; Mancía Decl. (Dkt 192-6) ¶ 14; Marwaha Decl. (Dkt 192-7) ¶ 17.

21 ⁸² *Garcia v. Google, Inc.*, 743 F.3d 1258, 1268 (9th Cir. 2014) (internal quotations marks omitted).

22 ⁸³ CDC COVID-19 Response Team, *Severe Outcomes Among Patients with Coronavirus Disease 2019*
23 (*COVID-19*) — *United States, February 12–March 16, 2020*, Morbidity & Mortality Wkly. Report
24 (MMWR), available at <http://dx.doi.org/10.15585/mmwr.mm6912e2> (last accessed April 3, 2020);
see also Frazer Decl., ¶¶ 11-15 (HIV positive and bleeding); Del Bosque Decl., ¶¶ 2-4 (asthmatic and
25 glaucoma), ¶ 9 (other detainee with cancer); Tejada Dejaso Decl., ¶¶ 3-4 (hypertensive with a history
26 of cardiac issues).

⁸⁴ National Institutes of Health, *Coronavirus and “Alternative” Treatments*, Mar. 6, 2020, available at
<https://nccih.nih.gov/health/in-the-news-in-the-news-coronavirus-and-alternative-treatments> (last
accessed April 3, 2020).

1 “congregate environments” where people live, sleep, and eat in close quarters.
2 Immigration detention facilities face even greater risk of infectious spread because of
3 overcrowding, the proportion of vulnerable people detained, and often scant medical
4 care resources. People live in close quarters and cannot achieve the “social distancing”
5 needed to effectively prevent the spread of COVID-19. The inability to maintain the
6 recommended distance of 6 feet from others, and the sharing and touching of objects
7 used by others is particularly true with HUSP Class Members who GEO forces to clean
8 common areas by threatening them with solitary confinement, a loss of privileges, and
9 criminal prosecution if they do not fulfill their cleaning assignments.

10 Given the combination of the close quarters in which Class Members are
11 confined, and their forced exposure to GEO’s employees and new detainees, conditions
12 faced by Class Members pose a significant risk of imminent and irreparable harm absent
13 the requested injunctive relief.⁸⁵

14 **3. The balance of the equities favors injunctive relief because life and**
15 **health of Class Members outweighs GEO’s profits from illegal,**
16 **unpaid, forced labor.**

17 In considering an order of injunctive relief, “[a] court must balance the competing
18 claims of injury and must consider the effect on each party of the granting or withholding
19 of the requested relief.”⁸⁶ The question is not even close. Class Members face the risk of
20 serious illness or death from COVID-19. By contrast, GEO faces the risk of hiring and
21 equipping cleaning staff instead of lining its pockets with profits won from slave labor.

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⁸⁵ Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019*
24 *(COVID-19) in Correctional and Detention Facilities* (updated Mar. 23, 2020), available at
25 [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)
[correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (last accessed Apr. 3, 2020).

26 ⁸⁶ *Arc of Cal. v. Douglas*, 757 F.3d 975, 991 (9th Cir. 2014)(quoting *Amoco Prod. Co. v. Vill. of Gambell*, 480
U.S. 531, 542 (1987)).

1 Ultimately, the question boils down to balancing the health and welfare, including
2 potential death, for Class Members against reduced profits for GEO (when forced to do
3 what it should be doing in any event). When faced with a conflict between financial
4 concerns and preventable human suffering, courts in this Circuit have had little difficulty
5 concluding that “the balance of the hardships tips decidedly in plaintiffs’ favor.”⁸⁷ To
6 ask the question answers it: GEO’s profits from slave labor cannot outweigh the health
7 of Class Members.

8 **4. Injunctive relief is in the public interest because the requested**
9 **relief helps sever the chain of exposure to COVID-19.**

10 With respect to the final element, the requested injunction would serve the public
11 interest because “[p]rotecting public health and safety is clearly in the public interest.”⁸⁸
12 Movants seek injunctive relief to prevent the spread of a pandemic. While the HUSP
13 Class Members seek the relief for their own protection, the relief they request will benefit
14 everyone who lives or works in GEO’s facilities. Once exposed to COVID-19—as they
15 inevitably will be if the HUSP program continues unabated—Class Members will return

16
17 ⁸⁷ *Rodde v. Bonta*, 357 F.3d 988, 998 (9th Cir. 2004) (the balance of the equities weighed in favor of the
18 plaintiffs when they would face a lack of necessary treatment, increased pain, and medical
19 complications and the harm to the defendant was “balancing its health care budget and controlling
20 costs”); *Harris v. Bd. of Supervisors, Los Angeles Cty.*, 366 F.3d 754, 766 (9th Cir. 2004) (the balance of
21 the equities weighed in favor of granting a temporary restraining order to prevent a Los Angeles
22 County hospital from reducing the number of hospital beds because the harms to the plaintiffs, which
23 included “pain, infection, amputation, medical complications, and death due to delayed treatment”
24 outweighed the financial harm to the defendants).

25 ⁸⁸ *State of California v. Picayune Rancheria of Chukchansi Indians of Cal.*, No. 1:14-CV-01593 (LJO-SAB), 2015
26 WL 9304835, at *8 (E.D. Cal. Dec. 22, 2015), *aff’d sub nom. California v. Picayune Rancheria of Chukchansi*
Indians of Cal., 725 F. App’x 591 (9th Cir. 2018); *see also Pashby v. Delia*, 709 F.3d 307, 331 (4th Cir.
2013) (stating that “the public interest in this case lies with safeguarding public health rather than
with assuaging North Carolina’s budgetary woes”); *Fruth, Inc. v. Pullin*, No. CV 3:15-16266, 2015 WL
9451066, at *8 (S.D. W. Va. Dec. 23, 2015) (“an injunction here will safeguard the public health and
thereby serve the public interest”); *Gen-Probe Inc. v. Bayer Healthcare LLC*, No. 05-CV-1668 BEN
(WMC), 2006 WL 8455600, at *6 (S.D. Cal. Mar. 3, 2006) (“the potential impact on public health
identified by Dr. Terrault is exactly the type of public interest meant to be considered under this
prong of the injunction analysis”).

1 to live and mingle with other detainees and interact with GEO's staff. And this cycle will
2 continue without Court intervention. Exempting the Class Members from the HUSP,
3 or providing them with adequate protection, would eliminate that link and, in turn, slow
4 the spread of COVID-19. This factor supports injunctive relief.

5 **B. The Court should grant the relief without requiring a bond.**

6
7 While Federal Rule of Civil Procedure 65(c) generally requires security be posted
8 before a temporary restraining is entered, this Court has the discretion to decide whether,
9 or in what amount, a bond is required.⁸⁹

10 District courts routinely exercise this discretion to require no security in cases
11 brought by indigent and/or incarcerated people.⁹⁰ So too here, Movants ask that this
12 Court exercise its discretion and grant the requested temporary restraining order without
13 requiring payment of security; or in the alternative, a minimal bond.

14 **IV. CONCLUSION**

15 For the foregoing reasons, Movants request this Court grant a temporary
16 restraining order in the form submitted and set this matter for determination of
17 extending its ruling in the form of a preliminary injunction.
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25 ⁸⁹ *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003).

26 ⁹⁰ *See, e.g., Toussaint v. Rushen*, 553 F. Supp. 1365, 1383 (N.D. Cal. 1983) (state prisoners); *Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 385 n. 42 (C.D. Cal. 1982) (detained immigrants).

1 Dated: April 6, 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On April 6, 2020, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Central District of California, using the electronic case filing system. I hereby certify that I have provided copies to all counsel of record electronically or by another manner authorized by Fed. R. Civ. P. 5(b)(2).

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