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## DILWORTH CO-COUNSEL IN PHILADELPHIA FEDERAL DETENTION CENTER DETAINEES CLASS ACTION LAWSUIT DEMANDING PROTECTION FROM COVID-19

April 15, 2020

At the Federal Detention Center (FDC) at 7<sup>th</sup> and Arch, more than 1,000 individuals—the majority of whom are pretrial detainees—live two per cell, unable to practice the most basic health and safety precautions during the COVID-19 pandemic. In contrast to action taken in Pennsylvania state prisons and Philadelphia jails to minimize risk to inmates and staff by working quickly to release numerous inmates, the FDC has done little to mitigate the risk of rapid spread of this deadly virus. Testing of detainees is virtually non-existent, as is personal protective equipment.

Now, three individuals currently incarcerated at the FDC have filed a class action lawsuit on behalf of all detainees against the warden of the FDC in his official capacity. They are seeking the immediate release of medically vulnerable inmates to home confinement, action to protect those who remain incarcerated, and an independent special master appointed by the court to oversee the federal jail's efforts. The inmates—Timothy Brown, Myles Hannigan, and Anthony Hall—are represented in this action petition for writs of habeas corpus by the Public Interest Law Center, [Linda Dale Hoffa](#), [Margaret Persico](#), and [David Rodkey](#) pro bono counsel from Dilworth Paxson LLP, and attorney Jim Davy.

[Read the complaint here.](#)

“Right now in the middle of downtown Philadelphia, hundreds of people are congregated tightly together in a location where fighting the spread of infection is nearly impossible,” said staff attorney Ben Geffen of the Public Interest Law Center. “The FDC needs to act now to keep inmates, staff, and the community outside the walls safe before this situation spirals into tragedy.”

Staff members in the FDC come and go with scant screening for symptoms and often without gloves or masks. Conditions are unsanitary—detainees themselves are responsible for disinfecting commonly touched surfaces, and are not often given the right tools to do so safely. Detainees have no ability to take the most fundamental precautions recommended by the CDC, including social distancing.

The named petitioners in the class action suit are all individuals with multiple serious health conditions, including asthma, renal failure and advanced heart disease, which put them at risk for serious illness from COVID-19. There are likely hundreds of inmates within the facility with health conditions that put them at risk.

“It can no longer be business as usual in our federal prisons. These are extraordinary times that require immediate and creative solutions to address this unprecedented health crisis threatening



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the lives of those at the FDC,” said [Linda Dale Hoffa](#), a partner at Dilworth Paxson law firm and co-counsel with the Law Center in this lawsuit.

Jails and prisons across the country have already become centers of rapid spread of COVID-19. In the Philadelphia jail system, the infection rate of inmates is 14.75 per 1,000—a higher infection rate than any Philadelphia neighborhood, the state of New York, or the province of Lombardy, Italy. On Tuesday, April 13, a 40 year old inmate in a Philadelphia jail died from COVID-19 complications.

Other federal Bureau of Prison facilities have already become hotbeds for COVID-19. At FCI Elkton in Ohio, three inmates have died from complications of COVID-19, and their staffing capacity has been reduced by a third. Governor Mike DeWine ordered the National Guard to assist at the prison. Staff at FDC Philadelphia have joined staff from several other Bureau of Prison facilities in filing an OSHA complaint about unsafe working conditions amid this pandemic.

The Philadelphia FDC’s response to the crisis has been inadequate. Staff only began checking the temperature of new detainees on March 26. According to the FDC, new detainees are confined apart from other inmates—but not apart from one another—for 14 days. Staff did not begin wearing masks until April 1, and use is still sporadic. All detainees are on lockdown, leaving the cell for an hour a day for use of shared email, telephone, and shower facilities. This measure has not stopped their interactions with others—currently, detainees report that they have close contact with 15 to 20 people a day.

The plaintiffs contend that the current dangerous conditions within the FDC violate the 8<sup>th</sup> Amendment’s ban on cruel and unusual punishment and their 5<sup>th</sup> Amendment right to due process.

“We simply do not condemn people to suffer exposure to a deadly virus as part of a sentence, much less to punish them for being accused of committing a crime,” said Jim Davy. “Our clients are asserting a constitutional right to safety and health, and the FDC needs to uphold our shared constitutional values even—especially—under these circumstances.

For further information, please contact [Linda Dale Hoffa](#).