

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 20-cv-00977-PAB-SKC

THOMAS CARRANZA;
JESUS MARTINEZ;
RICHARD BARNUM;
THOMAS LEWIS;
MICHAEL WARD;
COLBY PROPE; and
CHAD HUNTER,

Plaintiffs, on their own and on behalf of a class of similarly situated persons,

v.

STEVEN REAMS, Sheriff of Weld County, Colorado, in his official capacity,

Defendant.

**DEFENDANT'S ANSWER, DEFENSES, AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS' COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF [ECF 7]**

Defendant Sheriff Steven Reams ("Sheriff"), by and through his counsel, Matthew J. Hegarty, Esq., Andrew D. Ringel, Esq., and John F. Peters, Esq., of Hall & Evans, L.L.C., respectfully submits his Answer, Defenses, and Affirmative Defenses to Plaintiffs' Complaint for Injunctive and Declaratory Relief [ECF 7] ("Complaint"), and in support thereof admits, denies, and avers as follows:

INTRODUCTION

Since the outset of the COVID-19 pandemic, the Sheriff, the leadership team of the Weld County Sheriff's Office ("WCSO"), and all of its deputies have worked hard to determine an appropriate response sufficiently advancing the various applicable interests

involved—the need to operate the Weld County Jail (“WCJ”); the need to protect the safety and health of inmates, detainees, and staff; and the need to protect the public of Weld County and the State of Colorado. As set forth in all of the different submissions to this Court by the Sheriff and his staff to date, and through the Sheriff’s testimony at the April 30, 2020, hearing before this Court, the Sheriff and his staff have engaged and continue to engage in ongoing efforts to meet all these goals. Plaintiffs’ Complaint and their entire argument and evidentiary presentation throughout this matter focused only on one of the applicable factors—the health of the Plaintiffs. Such a myopic focus is not and cannot be the only applicable consideration for the Sheriff, this Court, and the public.

RESPONSE TO PLAINTIFFS’ INTRODUCTION

1. Paragraph 1 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 1 are deemed factual in nature, the Sheriff denies them.

2. Paragraph 2 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required.¹ To the extent any allegations in Paragraph 2 are deemed factual

¹ Plaintiffs’ Complaint contains 71 footnotes, the first appearing in Paragraph 2. The footnotes generally contain references purportedly supporting the general assertions in Plaintiffs’ Complaint. To the extent Plaintiffs intend to incorporate the actual footnoted material as allegations in the Complaint, the Sheriff objects to such incorporation. Moreover, it would be unduly burdensome for the Sheriff and his counsel, or indeed this Court, to review all of these sources to determine if they actually support the referenced allegations. The Sheriff states all such sources in their entirety speak for themselves. The Sheriff denies all allegations in all footnotes inconsistent with the entirety of the referenced materials. The Sheriff also denies any subjective and selective characterization of the

in nature, the Sheriff admits the entire world is in the midst of the COVID-19 pandemic. The Sheriff denies any remaining allegations deemed factual.

3. Paragraph 3 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. Further, the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. To the extent any allegations in Paragraph 3 are deemed factual in nature, the Sheriff admits the entire world is in the midst of the COVID-19 pandemic. The Sheriff denies any remaining allegations deemed factual in Paragraph 3.

4. Paragraph 4 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. Further, the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. To the extent any allegations in Paragraph 4 are deemed factual in nature, the Sheriff admits the entire world is in the midst of the COVID-19 pandemic. The Sheriff denies any remaining allegations deemed factual in Paragraph 4.

5. Paragraph 5 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no

referenced materials by Plaintiffs. Finally, if any of the footnotes are deemed to include allegations, the Sheriff denies all such allegations in all such footnotes.

response is required. Further, the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. Likewise, public health data in its entirety speaks for itself and requires no response. To the extent any allegations in Paragraph 5 are deemed factual in nature, the Sheriff denies them.

6. Paragraph 6 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. Further, the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. To the extent any allegations in Paragraph 6 are deemed factual in nature, the Sheriff admits that, as a general matter and prior to the onset of the COVID-19 pandemic, inmates in jails are often within a few feet of another, and that some Colorado jails including the WCJ have decreased their jail population during the COVID-19 pandemic. The Sheriff denies any remaining allegations in Paragraph 6.

7. Paragraph 7 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 7 are deemed factual in nature, the Sheriff admits some inmates in the WCJ have been on 23-hour-per-day lockdowns during some specific periods of time. The Sheriff denies any remaining allegations deemed factual in Paragraph 7.

8. Paragraph 8 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 8 are deemed factual in nature, the Sheriff denies them.

9. Paragraph 9 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 9 are deemed factual in nature, the Sheriff admits a small number of inmates and staff tested positive for COVID-19, but denies any outbreak of, or quick spread of, COVID-19 actually occurred at the WCJ. The Sheriff denies any remaining allegations deemed factual in Paragraph 9.

10. Paragraph 10 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. Public health data in its entirety speaks for itself and requires no response. To the extent any allegations in Paragraph 10 are deemed factual in nature, the Sheriff denies them.

11. Paragraph 11 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. Further, the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Data regarding jail populations in its entirety speaks for itself and requires no response. To the extent any allegations in Paragraph 11 are deemed factual in nature, the Sheriff denies them.

12. Paragraph 12 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 12 are deemed factual in nature, the Sheriff denies them.

13. Paragraph 13 of the Complaint is a purely prefatory statement containing a wide variety of legal conclusions and self-serving statements from Plaintiffs, to which no response is required. To the extent any allegations in Paragraph 13 are deemed factual in nature, the Sheriff denies them and further denies that Plaintiffs “represent” a class.

RESPONSE TO “JURISDICTION AND VENUE”

14. Responsive to the allegations in Paragraph 14 of the Complaint, the Sheriff admits Plaintiffs contend their constitutional rights allegedly were violated, but states Plaintiffs’ claims are without merit and Plaintiffs are not entitled to any of the relief sought in the Complaint to the extent alleged in Paragraph 14. The Sheriff denies 42 U.S.C. § 1983 provides an independent basis for this Court’s jurisdiction, to the extent Plaintiff may assert such claims in proper fashion to the extent alleged in Paragraph 14. The Sheriff denies this action is a “class action” as no class has been certified. The Sheriff denies all other allegations in Paragraph 14 while noting that federal rules and statutes in their entirety speak for themselves, and specifically denies Plaintiffs are entitled to any declaratory relief, any injunctive relief, any class certification, or any other relief.

15. Responsive to the allegations in Paragraph 15 of the Complaint, the Sheriff admits Plaintiffs contend their constitutional rights allegedly were violated, but states Plaintiffs’ claims are without merit and Plaintiffs are not entitled to any of the relief sought

in the Complaint to the extent alleged in Paragraph 15. The Sheriff admits this Court has subject matter jurisdiction over matters involving federal questions pursuant to 28 U.S.C. § 1331. The Sheriff denies all other allegations in Paragraph 15 while noting federal rules and statutes in their entirety speak for themselves. Further the Sheriff denies the Court has subject matter jurisdiction over any claims brought by Thomas Carranza, Thomas Lewis, Michael Ward, or Chad Hunter, as they are no longer housed in the WCJ and their claims are therefore moot. The Sheriff also denies the Court has subject matter jurisdiction over any class because no class certification is legally and factually appropriate and because the claims of the class representatives are moot.

16. Responsive to the allegations in Paragraph 16 of the Complaint, the Sheriff does not contest the propriety of venue in this case to the extent asserted in Paragraph 16 of the Complaint, but states Plaintiffs' claims are without merit. The remaining allegations set forth in Paragraph 16, if any, are denied.

RESPONSE TO "PARTIES"

17. Responsive to the allegations in Paragraph 17 of the Complaint, the Sheriff admits Thomas Carranza was 55 years old on the date the Complaint was filed. The Sheriff denies Mr. Carranza is housed in the WCJ and denies Mr. Carranza did not receive appropriate medical care while housed in the WCJ. The Sheriff states all of Mr. Carranza's medical records in their entirety speak for themselves and denies all allegations in Paragraph 17 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Carranza and all other inmates housed

in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 17, and hence denies them.

18. Responsive to the allegations in Paragraph 18 of the Complaint, the Sheriff admits Jesus Martinez is housed in the WCJ; admits Mr. Martinez has a bond of \$10,000 and a parole hold; and admits Mr. Martinez was 33 years old on the date the Complaint was filed. The Sheriff states all of Mr. Martinez's medical records in their entirety speak for themselves and denies all the allegations in Paragraph 18 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Martinez and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 18, and hence denies them.

19. Responsive to the allegations in Paragraph 19 of the Complaint, the Sheriff admits Richard Barnum was 54 years old on the date the Complaint was filed. The Sheriff denies Mr. Barnum is housed in the WCJ. The Sheriff states all of Mr. Barnum's medical records in their entirety speak for themselves and denies all the allegations in Paragraph 19 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Barnum and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 19, and hence denies them.

20. Responsive to the allegations in Paragraph 20 of the Complaint, the Sheriff admits Thomas Lewis was 60 years old on the date the Complaint was filed. The Sheriff denies Mr. Lewis is housed in the WCJ. The Sheriff states all of Mr. Lewis' medical

records in their entirety speak for themselves and denies all the allegations in Paragraph 20 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Lewis and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 20, and hence denies them.

21. Responsive to the allegations in Paragraph 21 of the Complaint, the Sheriff admits Michael Ward was 31 years old on the date the Complaint was filed. The Sheriff denies Mr. Ward is housed in the WCJ. The Sheriff states all of Mr. Ward's medical records in their entirety speak for themselves and denies all the allegations in Paragraph 21 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Ward and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 21, and hence denies them.

22. The allegations in Paragraph 22 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff states the law enforcement and criminal court records for each of the Plaintiffs in their entireties speak for themselves and denies all allegations in Paragraph 22 inconsistent therewith. To the extent the allegations in Paragraph 22 are deemed factual in nature, the Sheriff lacks knowledge or information sufficient to admit or deny them, and hence denies them.

23. Responsive to the allegations in Paragraph 23 of the Complaint, the Sheriff admits Colby Propes was 44 years old on the date the Complaint was filed. The Sheriff

admits Mr. Propes is now housed in the WCJ and has not yet been sentenced.² The Sheriff states all of Mr. Propes' medical records in their entirety speak for themselves and denies all allegations in Paragraph 23 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Propes and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 23, and hence denies them.

24. Responsive to the allegations in Paragraph 24 of the Complaint, the Sheriff admits Chad Hunter was 46 years old on the date the Complaint was filed. The Sheriff denies Mr. Hunter is housed in the WCJ and denies he was released on April 26, 2020.³ The Sheriff states all of Mr. Hunter's medical records in their entirety speak for themselves and denies all the allegations in Paragraph 24 inconsistent therewith. The Sheriff states the WCJ only possesses limited medical records and medical information as to Mr. Hunter and all other inmates housed in the WCJ. The Sheriff lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 24, and hence denies them.

25. Responsive to the allegations in Paragraph 25 of the Complaint, the Sheriff admits he is a final policymaker for the WCJ on most issues related to the operations of the WCJ although the Board of County Commissioners of Weld County is the final

² Mr. Propes was issued a court-ordered release from the WCJ on April 7, 2020, after entering a guilty plea but then failed to appear for a hearing and was subsequently arrested on June 5, 2020. At present, Mr. Propes is housed in the WCJ pending further state court judicial proceedings.

³ Mr. Hunter was released from the WCJ on April 15, 2020, to serve the remainder of his sentence on home detention pursuant to the order of a state court judicial officer.

policymaker for budgetary issues involving the WCSO. The Sheriff admits as Sheriff his actions taken in his official capacity are acts under the color of Colorado law. The Sheriff denies either he or his “agents” “have immediate custody over” the Plaintiffs; denies any class members are housed in the WCJ, as no class has been certified, and denies “all of [his] actions and inactions at issue herein occurred under color of state law.”

RESPONSE TO “FACTUAL ALLEGATIONS”

RESPONSE TO “COVID-19 POSES A SIGNIFICANT RISK OF ILLNESS, INJURY, OR DEATH”

Statement from the Sheriff as to Heading I on Page 10 of the Complaint: The Sheriff does not agree with or adopt Heading I on Page 10 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading I on Page 10 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

26. Responsive to the allegations in Paragraph 26 of the Complaint, the Sheriff admits the entire world is in the midst of the COVID-19 pandemic. Beyond that, however, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Further, public health data in its entirety speaks for itself and does not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 26.

27. Responsive to the allegations in Paragraph 27 of the Complaint, the Sheriff states this paragraph’s statements require expert opinions and are not factual allegations capable of being admitted or denied. Further, published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 27.

28. Responsive to the allegations in Paragraph 28 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 28.

29. Responsive to the allegations in Paragraph 29 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 29.

30. Responsive to the allegations in Paragraph 30 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Further public health data in its entirety speaks for itself and does not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 30.

31. Responsive to the allegations in Paragraph 31 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 31.

32. Responsive to the allegations in Paragraph 32 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 32.

33. Responsive to the allegations in Paragraph 33 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 33.

34. Responsive to the allegations in Paragraph 34 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 34.

35. Responsive to the allegations in Paragraph 35 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 35.

36. Responsive to the allegations in Paragraph 36 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. Further public health data in its entirety speaks for itself and does not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 36.

37-A.⁴ Responsive to the allegations in the first Paragraph 37 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 37-A.

⁴ Plaintiffs' Complaint repeats paragraph numbers 37 and 38.

38-A. Responsive to the allegations in the first Paragraph 38 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 38-A.

RESPONSE TO “PERSONS INCARCERATED IN JAILS FACE GRAVE AND IMMEDIATE DANGER DUE TO COVID-19”

Statement from the Sheriff as to Heading II on Page 15 of the Complaint: The Sheriff does not agree with or adopt Heading II on Page 15 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading II on Page 15 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

37-B. Responsive to the allegations in the second Paragraph 37 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. This paragraph contains broad statements and not factual allegations specific to this case that can be admitted or denied. Further, public health data in its entirety speaks for itself and does not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 37-B.

38-B. Responsive to the allegations in the second Paragraph 38 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. This paragraph contains broad statements and not factual allegations specific to this case that can be admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 38-B.

39. Responsive to the allegations in Paragraph 39 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual

allegations capable of being admitted or denied. This paragraph contains broad statements and not factual allegations specific to this case that can be admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 39.

40. Responsive to the allegations in Paragraph 40 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. This paragraph contains broad statements and not factual allegations specific to this case that can be admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 40.

41. Responsive to the allegations in Paragraph 39 of the Complaint, the Sheriff states the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. This paragraph contains broad statements and not factual allegations specific to this case that can be admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 41.

RESPONSE TO “EXISTING PROCEDURES AND PROTOCOLS AT THE WELD COUNTY JAIL ARE NOT SUFFICIENT TO ENSURE THE SAFETY OF THE PLAINTIFFS, CLASS MEMBERS OR THE GENERAL PUBLIC”

Statement from the Sheriff as to Heading III on Page 17 of the Complaint: The Sheriff does not agree with or adopt Heading III on Page 17 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading III on Page 17 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

42. Responsive to the allegations in Paragraph 42 of the Complaint, the Sheriff responds the statements in this paragraph require expert opinions and are not factual allegations capable of being admitted or denied. This paragraph contains broad

statements and not factual allegations specific to this case that can be admitted or denied. Published guidance and public statements from public health authorities in their entirety speak for themselves and do not require a response. Any Executive Order by Governor Jared Polis in its entirety speaks for itself and does not require a response. The Sheriff denies any remaining allegations deemed factual in Paragraph 42.

43. Responsive to the allegations in Paragraph 43 of the Complaint, the Sheriff admits the Weld County Sheriff's Office received a letter from the ACLU dated March 26, 2020. The Sheriff responds to the remaining statements in this paragraph as follows: the statements are expert opinions and are not factual allegations capable of being admitted or denied. The Sheriff denies any remaining allegations deemed factual in Paragraph 43.

44. Responsive to the allegations in Paragraph 44 of the Complaint, the Sheriff admits a small number of inmates and staff tested positive for COVID-19. The Sheriff denies all remaining allegations in Paragraph 44.

45. Responsive to the allegations in Paragraph 45 of the Complaint, the Sheriff lacks knowledge or information sufficient to admit or deny them, and hence denies them.

46. The Sheriff denies the allegations in Paragraph 46.

47. Responsive to the allegations in Paragraph 45 of the Complaint, the Sheriff admits he posted a "Get out of Jail Free Card" on Facebook and admits he did not release inmates from the WCJ except as ordered by Colorado state court judges as he is required to do under Colorado law. The Sheriff denies all remaining allegations in Paragraph 47.

48. Responsive to the allegations in Paragraph 48 of the Complaint, the Sheriff states public health data in its entirety speaks for itself and does not require a response. The Sheriff denies all remaining allegations in Paragraph 48.

49. Responsive to the allegations in Paragraph 49 of the Complaint, the Sheriff admits: many WCJ staff members work in Weld County; and some inmates are released from the WCJ daily. The Sheriff denies all remaining allegations in Paragraph 49.

50. The Sheriff denies the allegations in Paragraph 50.

51. Responsive to the allegations in Paragraph 51 of the Complaint, the Sheriff admits the WCJ implemented a 23-hour per day lockdown for part of April 2020. The Sheriff denies all remaining allegations in Paragraph 51.

52. Responsive to the allegations in Paragraph 52 of the Complaint, the Sheriff admits: some cells in the WCJ currently house more than one inmate; multiple inmates are allowed in common areas of the WCJ at some times and under specified conditions; and the conditions and restrictions on inmate congregation during COVID-19 have been strict and appropriate with public health guidelines based on the physical plant, number of inmates, classification needs, and other considerations of the WCJ. The Sheriff denies all remaining allegations in Paragraph 52.

53. Responsive to the allegations in Paragraph 53 of the Complaint, the Sheriff admits some inmates in some housing units within the WCJ share bathroom facilities. The Sheriff denies all remaining allegations in Paragraph 53.

54. The Sheriff denies the allegations in Paragraph 54.

55. The Sheriff denies the allegations in Paragraph 55.

56. The Sheriff denies the allegations in Paragraph 56.

57. The Sheriff denies the allegations in Paragraph 57.

58. The Sheriff denies the allegations in Paragraph 58.

59. The Sheriff denies the allegations in Paragraph 59.

60. The Sheriff denies the allegations in Paragraph 60.

61. The Sheriff denies the allegations in Paragraph 61.

62. The allegations in Paragraph 62 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. To the extent the allegations are deemed factual in nature, the Sheriff denies them and specifically denies Plaintiffs are entitled to any relief as may be sought in Paragraph 62.

63. The Sheriff denies the allegations in Paragraph 63.

RESPONSE TO “CLASS ACTION ALLEGATIONS”⁵

Statement from the Sheriff as to Heading IV on Page 24 of the Complaint: The Sheriff does not agree with or adopt Heading IV on Page 24 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading IV on Page 24 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

64. The allegations in Paragraph 64 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff denies class certification is legally or factually appropriate. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

⁵ Contemporaneously with the filing of this Answer, the Sheriff is filing the Defendant’s Response to Plaintiffs’ Motion for Class Certification [ECF 2]. The Sheriff incorporates herein all the arguments and authorities from the Response.

65. The allegations in Paragraph 65 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff denies that class certification is legally or factually appropriate. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

66. The allegations in Paragraph 66 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff denies that class certification is legally or factually appropriate. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

67. The allegations in Paragraph 67 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff denies that class certification is legally or factually appropriate. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

RESPONSE TO “CLAIMS FOR RELIEF”

Statement from the Sheriff as to Heading V on Page 25 of the Complaint: The Sheriff does not agree with or adopt Heading V on Page 25 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading V on Page 25 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

RESPONSE TO “FIRST CLAIM FOR RELIEF”

Statement from the Sheriff as to Statements between the “First Claim for Relief” heading and Paragraph 68: The Sheriff denies the Court has subject matter jurisdiction over any claim by Thomas Carranza, Thomas Lewis, or Michael Ward. The

Sheriff further denies any named Plaintiff represents a class. The Sheriff also denies class certification is legally or factually appropriate.

68. The allegations in Paragraph 68 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

69. The allegations in Paragraph 68 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The Sheriff denies that any class exists. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

70. Responsive to the allegations in Paragraph 70 of the Complaint, the Sheriff denies the allegations in Paragraph 70 and denies any class exists.

71. Responsive to the allegations in Paragraph 71 of the Complaint, the Sheriff denies the allegations in Paragraph 71 and denies any class exists.

RESPONSE TO “SECOND CLAIM FOR RELIEF”

Statement from the Sheriff as to Statements between the “Second Claim for Relief” heading and Paragraph 72: The Sheriff denies the Court has subject matter jurisdiction over any Eighth Amendment claim by Colby Propes or Chad Hunter. The Sheriff further denies that any named Plaintiff represents a class. The Sheriff also denies class certification is legally or factually appropriate.

72. The allegations in Paragraph 72 of the Complaint are conclusory and seek to state objectionable legal conclusions, and therefore no response is required. The

Sheriff denies that any class exists. To the extent the allegations are deemed factual in nature, the Sheriff denies them.

73. Responsive to the allegations in Paragraph 73 of the Complaint, the Sheriff denies the allegations in Paragraph 73 and denies any class exists.

74. Responsive to the allegations in Paragraph 74 of the Complaint, the Sheriff denies the allegations in Paragraph 74 and denies any class exists.

RESPONSE TO “CLAIMS FOR RELIEF”

Statement from the Sheriff as to Heading VI on Page 27 of the Complaint: The Sheriff does not agree with or adopt Heading VI on Page 27 of the Complaint or any characterization therein made by Plaintiffs. To the extent Heading VI on Page 27 of the Complaint is construed to be part of Plaintiffs’ claims, the Sheriff denies its allegations.

75. Responsive to the allegations in Paragraph 75 of the Complaint, the Sheriff denies all allegations in Paragraph 75 and denies Plaintiffs are entitled to any of the relief listed as being sought in Paragraph 75 or as being sought in subparagraphs 1. through 6. or in subparagraphs 2a. through 2g. The Sheriff further denies any named Plaintiff represents a class and also denies class certification is legally or factually appropriate.

STATEMENT OF DENIAL OF ALLEGATIONS NOT SPECIFICALLY ADMITTED

The Sheriff expressly denies any and all allegations set forth in the Complaint but not specifically admitted in this Answer.

DEFENSES AND AFFIRMATIVE DEFENSES

PREFATORY STATEMENT: Counsel has not had an opportunity to participate in discovery or conduct a full investigation into this case’s facts. Thus, the defenses set forth

below are pled alternatively under Fed.R.Civ.P. 8(d). The Sheriff will withdraw or modify any defense or affirmative defense as may be required under Fed.R.Civ.P. 11 if it is revealed after the discovery period concludes the Sheriff cannot prevail in such defense.

1. The Complaint may fail to state a claim on which relief may be granted.
2. Plaintiffs may not be entitled to any relief being sought or claimed in the Complaint under one or more of the legal theories asserted therein.
3. The Court lacks subject matter jurisdiction over any claim by Thomas Carranza, Thomas Lewis, Michael Ward, or Chad Hunter, as they are no longer housed in the WCJ and their claims are therefore moot.
4. The named Plaintiffs cannot serve as class representatives because the named Plaintiffs lack standing to bring their claims.
5. The named Plaintiffs cannot serve as class representatives because the named Plaintiffs' alleged claims are not typical of the putative class.
6. Certification of Plaintiffs' putative class is legally and factually inappropriate.
7. The Court has already rejected Plaintiffs' definition of the putative class, by adopting a narrower definition of "medically vulnerable" in its Order. [ECF 55].
8. Plaintiffs cannot meet their burden of proof to show class certification is appropriate under Fed.R.Civ.P. 23.
9. All or part of Plaintiffs' claims never achieved the level of any constitutional violation sufficient to state a claim under 42 U.S.C. § 1983.
10. The harm Plaintiffs allege may have been caused by the acts or omissions of third parties over whom the Sheriff possessed no ability to control or right of control.

11. At all relevant times, the Sheriff acted in accordance with all common law, statutory, and constitutional obligations, and without any intent to cause Plaintiffs harm.

12. Plaintiffs' claims, including alleged entitlement to attorney fees, may be barred or limited by the provisions of the Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e.

13. The Sheriff acted reasonably under the circumstances and complied with applicable legal authority in all acts or omissions associated with Plaintiffs.

14. Plaintiffs cannot satisfy all or some of the prerequisites to a grant of equitable or injunctive relief in this matter and any request for injunctive relief is moot.

15. The Sheriff reserves his right to assert other or additional defenses and affirmative defenses as may become known in the course of these proceedings generally and specifically in response to any Amended Complaint filed by Plaintiffs.

WHEREFORE, having answered all allegations of the Complaint which require a response, Defendant Sheriff Steven Reams moves the Court for an Order dismissing all elements of all claims against him in complete and total fashion, awarding him costs and attorney fees, and granting all other and further relief as the Court deems just and proper.

Dated and respectfully submitted this 8th day of June, 2020.

s/ Matthew J. Hegarty
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on this 8th day of June, 2020, a true and correct copy of the foregoing **DEFENDANT'S ANSWER, DEFENSES, AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF [ECF 7]** was electronically filed with the Clerk of Court which will send notification of such filing to the following email addresses:

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