

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

TRANSPORT WORKERS UNION
OF AMERICA, LOCAL 291, AFL-CIO,
and JEFFERY MITCHELL,

GENERAL JURISDICTION DIVISION
CASE NO.

Plaintiffs,

v.

ALICE BRAVO, in her official capacity
as Director of the Miami-Dade County Department
of Transportation & Public Works,

Defendant.

_____ /

COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF—
COVID-19 PANDEMIC

COME NOW, Plaintiffs, TRANSPORT WORKERS UNION OF AMERICA, LOCAL 291 (hereinafter “TWU Local 291”), and JEFFERY MITCHELL (hereinafter “President Mitchell”), by and through the undersigned counsel, and file this Complaint against Defendant ALICE BRAVO, in her official capacity as Director of the Miami-Dade County Department of Transportation & Public Works (hereinafter “DTPW” or the “Department”), alleging as follows:

1. Plaintiffs bring this suit to safeguard the health and welfare of Miami-Dade County (hereinafter the “County”) Metrobus, Metrorail, and Metromover employees, including bus drivers and train operators, as well as passengers on County public transit, and County residents in the midst of the Coronavirus Disease 2019 (“COVID-19”) pandemic.

2. DTPW operates the 15th largest public transit system in the United States, and the largest in Florida. The County’s Metrobus fleet historically runs approximately 28.9 million miles throughout Miami-Dade County. The County’s transit system also includes the 25-mile elevated

rapid-transit Metrorail system, the 4.4-mile elevated Metromover system, and the paratransit system that meets the needs of the disabled.

3. During this pandemic, the County's transit employees are dedicated public servants risking their own wellbeing serving on the front lines of transporting essential workers, including some of the County's most vulnerable residents.

4. The County has recognized that the purposes of the County's transit department include to "[e]nable the safe, secure and efficient operation of public mass transit," and to "[p]reserve the safety, security and rights of the general public using the transit system." Section 30B-1, Miami-Dade County Code.

5. As Director of the DTPW, Defendant Alice Bravo has the duty to take the necessary steps to adequately protect the safety of the public bus transit system within Miami-Dade County. Director Bravo has failed to take those steps.

6. **Lives are at stake. Emergency action is needed from this Court to protect the Plaintiffs, the public transit employees and the passengers from Defendant Alice Bravo's actions and failures to act,** which create an imminent threat to the public health, safety and welfare.

7. No one desires to bring a lawsuit during a public health crisis. It is the last step the Plaintiffs wanted to take, but there are no "do overs" for those who die from this killer virus. Director Alice Bravo's public health and safety failures are so exigent and extreme that judicial intervention is necessary. Defendant has regrettably refused to fully fulfill her duties.

JURISDICTION AND VENUE

8. This is an action seeking injunctive and equitable relief. This Court has jurisdiction pursuant to Fla. Stat. § 26.012(c).

9. The actions complained of herein occurred in Miami-Dade County, Florida.

10. All conditions precedent to bringing this action have been performed, excused or waived.

11. Venue is appropriate in Miami-Dade County, Florida as the cause of action accrued in Miami-Dade County. Fla. Stat. § 47.011.

PARTIES IN THIS PUBLIC HEALTH CRISIS

12. Plaintiff TWU Local 291 is a labor organization as defined under Fla. Stat. § 447.02. TWU Local 291 may maintain any action or suit pursuant to Fla. Stat. § 447.11. TWU Local 291 is the certified collective bargaining representative of approximately 2,800 transit workers employed by the County within DTPW, pursuant to Fla. Stat. § 447.307. TWU Local 291 is the official representative of the County's public transit employees, and the leading advocate for passenger safety.

13. Plaintiff Jeffery Mitchell is President of TWU Local 291, a County transit employee, and a resident of Miami-Dade County. He is the leading voice for TWU Local 291 and for the 2,800 employees it represents.

14. Defendant Alice Bravo is the Director of the County's Department of Transportation and Public Works, which operates Florida's largest public transit system. **As Director, Defendant Bravo is in charge of the County's transit fleet, and the safety of its employees and passengers.**

FACTS

15. Miami-Dade County, like the rest of the world, is facing the unprecedented threat of the COVID-19, a severe respiratory illness caused by SARS-CoV-2.

16. Much is still unknown about the Coronavirus, but its lethal effects are being felt across this County, the country, and the world.

17. According to the Centers for Disease Control and Prevention (“CDC”), the virus is thought to spread mainly from person-to-person “between people who are in close contact with one another (within about 6 feet)[, and t]hrough respiratory droplets produced when an infected person coughs, sneezes or talks.”¹ It is understood that the virus can be spread by human contact with surfaces contaminated with droplets containing the virus.

18. The CDC has also cited recent studies that the virus may also be spread by individuals before they have symptoms, and even if they never develop symptoms.

19. Elderly people and people of all ages with chronic medical conditions like heart disease, lung disease, and diabetes are believed to be at higher risk of developing severe illness resulting in death. This unpredictable virus has not discriminated, however, and has resulted in serious illness and death to people of all ages, including those without underlying medical conditions.

20. There is currently no vaccine to prevent COVID-19. According to the CDC, preventing effective community mitigation is “especially important before a vaccine or drug becomes widely available.”

21. Since March 1, 2020 the number of confirmed COVID-19 cases in the United States has increased from 85 to over 605,000.² As of April 14, 2020, the CDC reported that the United

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/bus-transit-operator.html>

² <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

States had 24,582 confirmed deaths related to COVID-19. These numbers only include individuals who have been tested for the novel COVID-19, and are thought by experts to be much higher.

22. In Florida, as of the morning of April 15, 2020, there were 22,511 positive COVID-19 cases according to the Florida Department of Health. These numbers continue to sharply rise daily.³

23. **Miami-Dade County has the highest number of COVID-19 confirmed cases and deaths within the state.** According to the Florida Department of Health, on April 15, 2020, Miami-Dade County was up to 8,066 confirmed positive cases, nearly 700 hospitalizations, and 146 deaths. **Upon information and belief, multiple County transit employees have tested positive for COVID-19.** Each day these numbers climb.

24. The Institute of Health Metrics and Evaluations has projected that Florida is still nearly three weeks away from reaching its peak number of deaths per day, assuming that full social distancing remains in effect through May 2020.⁴

25. The threat of COVID-19 has been acknowledged by federal, state, and local governments throughout the country. In light of this undisputed public emergency, governments throughout the country have undertaken drastic protective and proactive measures to respond to and to mitigate this public health crisis.

26. On January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency in response to the COVID-19 outbreak.

27. On March 1, 2020, Florida Governor Ron DeSantis issued Executive Order 20-51 directing the State Surgeon General to declare a Public Health Emergency. On that same date,

³ <https://experience.arcgis.com/experience/96dd742462124fa0b38ddedb9b25e429>

⁴ <https://covid19.healthdata.org/united-states-of-america/florida>

the State Surgeon General Dr. Scott Rivkees declared a Public Health Emergency for COVID-19 in Florida.

28. On March 9, 2020 Governor Ron DeSantis issued Executive Order 20-52, declaring a State of Emergency for COVID-19 throughout the state of Florida.

29. On March 11, 2020 the World Health Organization announced that the outbreak reached the level of a global pandemic.

30. On March 12, 2020, the Miami-Dade County Mayor declared a local state of emergency to respond to the threat of the Coronavirus, and to provide for measures to deal with this novel and dangerous virus. The Declaration of a State of Local Emergency continues in effect within Miami-Dade County.

31. On March 13, 2020, a national emergency was declared as a result of this pandemic.

32. Also on March 13, 2020, Florida's Division of Emergency Management issued an Emergency Order, which stated: "COVID-19 poses a severe threat to the entire State of Florida and requires that timely precautions are taken to protect the communities and general welfare of the State of Florida."⁵

33. On March 19, 2020, the County Mayor issued Miami-Dade Emergency Order 07-20, adopting CDC guidelines regarding social distancing and maintaining a 6-foot separation between residents to slow the spread of infection.⁶ The Miami-Dade Emergency Order closed all "non-essential retail and commercial establishments," but listed several categories of essential retail and commercial businesses that could remain open.

⁵ Available at: <https://www.flgov.com/wp-content/uploads/covid19/DEM%20ORDER%20NO.%202020-005.pdf>

⁶ Available at: <https://www.miamidade.gov/information/library/coronavirus-emergency-order-07-20-businesses.pdf>

34. On April 1, 2020, Governor DeSantis issued Exec. Order No. 20-91, a shelter-in-place order for the state of Florida, effective April 3, 2020.⁷ Pursuant to this Order, all residents within this state were ordered to “limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities.”

35. Plaintiffs and the transit employees represented by TWU Local 291 are essential employees under the local and state orders. These employees have fully and courageously embraced their essential role.

36. Although the CDC advises that the best way to prevent illness is to avoid being exposed to the virus, many of the County’s bus drivers, train operators, and other transit employees do not have the option to stay home. They are responsible for keeping the County’s public transit riders moving during this pandemic. Some of these passengers are themselves essential workers needing to use public transit to get to work. Other passengers rely on public transit as their sole source of transportation.

37. Even with reduced ridership during the pandemic, Bravo confirmed that the County’s public transit system still has a monthly ridership of 1.3 million passengers as of April 14, 2020.⁸ That is tens of thousands of passengers per day coming into contact with the County’s public transit operators and transit vehicles. At times, these passengers leave their body fluids upon the surfaces within such vehicles.

38. Due to their close proximity to large numbers of the public as they keep the buses and trains moving across the County, transit operators represented by TWU Local 291 are at an increased risk of contracting COVID-19. The CDC has recognized that bus transit operators have a

⁷ Available at: https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-91.pdf

⁸ <https://www.miamitodaynews.com/2020/04/14/miami-dade-transit-ridership-falls-80/>

risk of exposure from “having close contact with a bus passenger with COVID-19 or by contacting surfaces touched or handled by a person with COVID-19.”⁹

39. The media has reported the terrifying and life-threatening effects on transit employees across this country during this COVID-19 crisis.

40. For example, the death of Detroit bus operator Jason Hargrove from COVID-19—11 days after Mr. Hargrove posted a video angered by a bus passenger who got on the bus and coughed several times without covering her mouth—was widely reported.¹⁰ As of April 10, 2020, the City of Detroit reported that 51 bus system employees had tested positive for COVID-19 and 136 were in quarantine.¹¹

41. Bus operators in New York City reported at least 274 positive COVID-19 cases as of April 9, 2020. In New York City, it was reported that transit workers have “died at three times the combined rate of the City’s police and fire departments, which employ first responders like EMS workers.”¹² The Transport Workers International Union and its Local 100 led a successful and aggressive public education campaign regarding the necessary safety protections for transit employees, including N95 masks. After weeks of their efforts to get N95 masks for New York’s transit employees—and weeks of increasing numbers of COVID-19 illness and injury among transit operators—New York State is distributing 250,000 N95 masks to subway operators, bus drivers and other transit employees across that state.

⁹<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/bus-transit-operator.html>

¹⁰<https://www.nbcnews.com/news/us-news/detroit-bus-driver-who-posted-video-about-coughing-rider-dies-n1175886>

¹¹<https://www.washingtonpost.com/graphics/2020/national/detroit-coronavirus/>

¹²<https://www.thenation.com/article/politics/mta-transit-driver-covid/>
<https://www.nydailynews.com/coronavirus/ny-coronavirus-mta-nyc-transit-workers-deaths-20200408-f37damz5tjdmnc4pahurf3cjay-story.html>

42. At this very moment, **Miami-Dade County transit employees are facing significant risks of exposure to COVID-19 due to their proximity to the public** while operating the County's public trains and buses.

43. **The County's bus drivers and train operators transport some of Miami-Dade County's most vulnerable residents.** During this pandemic, the County's public transit system continues to transport low-income residents, essential employees who can't work from home, and people without driver's licenses, car insurance, or a vehicle. At-risk residents must continue to use the County's buses and trains to obtain or provide essential services, like seeking medical care, getting groceries, or picking up prescriptions.

44. The public transit system is critical. As the Director of DTPW, Defendant Alice Bravo is responsible for the safety of all public transit employees, passengers, and the citizens coming into close contact with these passengers and employees.

45. **Defendant Alice Bravo has failed to properly "[e]nable the safe, secure and efficient operation of public mass transit," and to "[p]reserve the safety, security and rights of the general public using the transit system," as required by Section 30B-1 of the County Code.**

46. Defendant Alice Bravo has failed to adequately protect Plaintiffs and has put the safety of Miami-Dade County's bus drivers, train operators, other transit employees, and their families at risk. Her failure is extraordinary and indefensible.

47. **Defendant Alice Bravo has failed to provide sufficient personal protective equipment to transit employees—even though the County has adequate PPE and supplies. She has further not provided transit employees the PPE products within the County's inventory that provide the highest levels of protection.**

48. **Defendant Alice Bravo has failed to provide bus operators, train operators, and other transit employees who have to touch the vehicles that passengers ride in with sufficient products for effectively cleaning and disinfecting their workspaces from the killer virus.** Experts report that the virus can live on such surfaces for extended periods of time.

49. **In some cases, Defendant Alice Bravo has only issued the County’s bus drivers a single disinfectant wipe to last them an entire shift.** This contravenes CDC recommendations to “[p]rovide disposable disinfectant wipes so that surfaces commonly touched by the bus operator can be wiped down,” and to “[p]ractice routine cleaning and disinfection of frequently touched surfaces, including surfaces in the driver cockpit commonly touched by the operator.”¹³ Proper routine cleaning is not possible with the inadequate supplies Defendant Bravo has provided to the bus operators.

50. **Defendant Alice Bravo has failed to provide bus operators with sufficient hand sanitizer, in some cases only allowing bus drivers’ hand sanitizer bottles to be refilled once per week.** The CDC has recognized that “proper hand hygiene is an important infection control measure” for bus operators. Defendant Bravo’s failure to provide these basic supplies in the face of the COVID-19 pandemic threatens the safety of the bus operators and the bus system as a whole.

51. **Defendant Alice Bravo has also failed to properly sanitize the public transit equipment that the transit employees work on and that the passengers ride on.** Defendant has failed to require that the rail cars and buses used for public transit are properly deep cleaned and thoroughly sanitized throughout their service hours and overnight. Such deep cleaning is needed to protect the riders and the employee operators, mechanics and technicians who come into contact with the vehicles.

¹³<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/bus-transit-operator.html>

52. For weeks, Defendant Alice Bravo also failed to provide any masks for bus operators, train operators, and other transit employees who come into contact with the public and the vehicles they ride upon. On or around April 7, 2020, Defendant finally issued bus drivers a single surgical mask, which operators were told to reuse. To date, many operators have received no replacement mask.

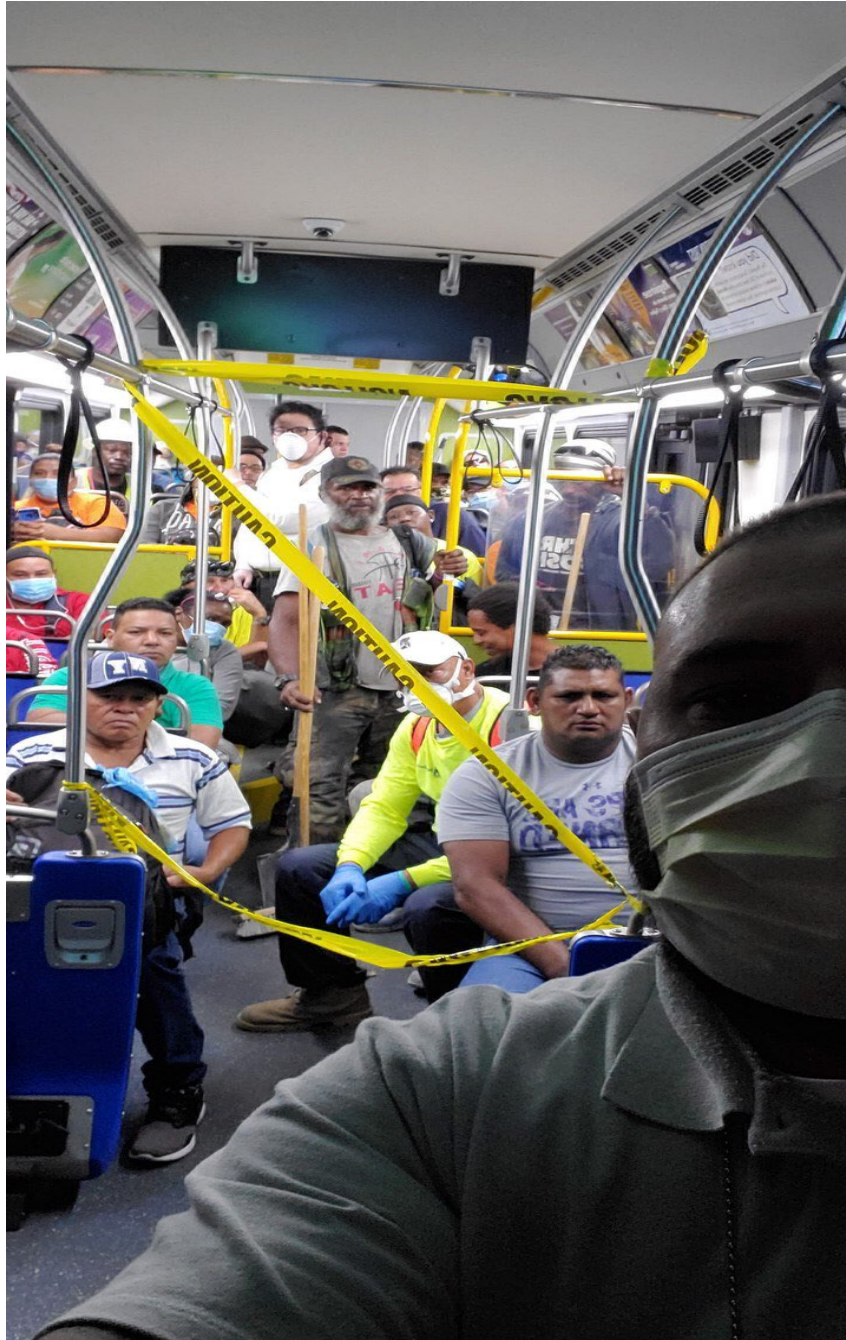
53. **Further, the masks Defendant Alice Bravo has provided to transit employees are insufficient to ensure their safety and protection from COVID-19. To date, Defendant Alice Bravo has failed to provide necessary N95 and/or KN95 masks** to the County's bus drivers, train operators, and other transit employees who are in direct contact with members of the public during this pandemic.

54. Defendant Bravo has understandably cut bus routes and service, which has resulted in the overcrowding of certain buses.¹⁴ **Overcrowding does not allow for sufficient social distancing, and puts operators and the public at risk.** Packing passengers onto a bus is dangerous for the passengers, the employees, and the public.

55. Adding to the risk faced by operators, Defendant Alice Bravo has also failed to provide sufficient barriers to physically separate bus transit operators from passengers, and to enforce the safe 6-foot minimum distance under social distancing guidelines. **On crowded—and in some cases, outrageously overcrowded—buses, the danger to the bus operators is magnified.**

¹⁴ <https://www.miamidade.gov/releases/03-19-20-dtpw-coronavirus-service-adjustments.asp>

56. On or around April 6, 2020, the following photograph was taken on a Miami-Dade County bus, illustrating the unsafe conditions bus drivers and the riding public are facing as a result of Defendant Bravo's failures to enact proper safety measures¹⁵:



¹⁵<https://www.miaminewtimes.com/news/coronavirus-in-miami-county-bus-photo-shows-transit-crisis-11616533>

57. Upon information and belief, after the reporting of this picture, Defendant Alice Bravo reduced the number of seats available for passengers by marking bus seats with an “X.” However, **Defendant Bravo has failed to establish any procedures for the enforcement of where passengers may sit, or of any effective social distancing procedures** on County buses. There is no enforcement mechanism in place.

58. On April 9, 2020, the County Mayor issued Executive Order 20-20 requiring the use of facial coverings for people riding on public transit.¹⁶ Upon information and belief, Defendant Alice Bravo has failed to establish any adequate procedures to enforce the requirement to wear masks on public buses. Further, Defendant Bravo has not provided extra face coverings for passengers.

59. Plaintiffs and County bus drivers, train operators, and other transit employees working on vehicles used by the public are at an increased risk of contracting COVID-19 as a result of Defendant’s mismanagement of the public transit system. Further, because of Defendant Alice Bravo’s failure to put the proper safety procedures in place, the County’s public transit passengers are at an increased risk of catching this dangerous virus and spreading it to their families and throughout the community.

60. The County’s public buses and trains are an essential lifeline in the midst of this pandemic. If Defendant Alice Bravo continues to fail to put the proper safety and enforcement procedures in place, **more people will get sick and more people will die.** Intervention is needed from this Court on an emergency basis to prevent such unnecessary tragedy.

¹⁶ Available at: <https://www.miamidade.gov/information/library/04.09.20-emergency-order-20-20.pdf>

COUNT FOR INJUNCTIVE RELIEF

Plaintiffs reallege paragraphs 1- 60 above.

61. Fla. Stat. § 26.012(3) gives the circuit courts of this state jurisdiction and the power to issue injunctions.

62. Plaintiffs seek an injunction which will require Defendant Alice Bravo to take the necessary actions to minimize the County's transit employees' exposure to COVID-19, to "[e]nable the safe, secure and efficient operation of public mass transit," and to "[p]reserve the safety, security and rights of the general public using the transit system," as required by Section 30B-1 of the Miami-Dade County Code.

63. Plaintiffs have a substantial likelihood of success on the merits. This dangerous virus is spreading throughout the community like wildfire, with Miami-Dade County's expected peak still weeks away. Public transportation can be a vulnerable epicenter for community spread without the adequate safety protections. Without an injunction, the bus drivers, train operators, and other transit employees working on the transit vehicles who are represented by TWU Local 291, their families, the passengers, and the community at large could suffer physical injury, illness, and potentially death from the COVID-19 virus. **Employees should not have to face injury or death for reporting to work. Indeed, the Florida Constitution mandates that "[a]ll natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy . . . life and liberty."** Art. I, § 2, Fla. Const. Protecting the health and safety of transit employees and the County's public transit system as a whole is a matter of paramount importance that is recognized by the Miami-Dade County Code. Defendant Alice Bravo cannot legally deny these transit employees their basic and constitutionally protected human rights to health, safety, and life.

64. Plaintiffs have demonstrated irreparable injury and harm. This is a case where the Defendant's actions and failures to act will jeopardize the County's transit employees and public health and safety in a manner which is incurable. There is no reversal of a death from COVID-19. Defendant Bravo's failure to ensure a safe public transit system will accelerate the spread of the highly contagious COVID-19 virus and defeat the purpose of the emergency orders in place.

65. The threatened injury to the lives of the transit employees represented by Plaintiff TWU Local 291 and to the residents of Miami-Dade County outweighs any possible harm to Defendant Alice Bravo, who is responsible for overseeing a safe public transit system for the citizens of this County.

66. If ever there were a case of public interest, it would be this one. Plaintiffs have no adequate remedy at law. This is not an issue that can be cured with money. Death is not reversible. Lives—and the health and safety of the County's transit employees and its public transit system—are on the line.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for relief and judgment as follows:

1. To issue an injunction mandating that the Defendant Alice Bravo, in her official capacity as the Director of the County's Department of Transportation & Public Works, immediately take all necessary actions to adequately ensure the safety of the County's transit employees represented by TWU Local 291, and of the County's public transit system, including, but not limited to:

- a. Taking the appropriate measures to adequately clean and sanitize public transit vehicles to minimize the potential spread of COVID-19, including by elevating the deep sanitizing of the public buses and rail cars during service and overnight;
- b. Providing bus operators, train operators, and other transit employees working on transit vehicles used by the public with adequate and sufficient supplies of PPE, including, but not limited to, N95 and/or KN95 masks, sufficient disinfectant wipes and cleaning products, hand sanitizers, and gloves;
- c. Installing physical partitions between bus operators and passengers;
- d. Implementing enforcement and monitoring mechanisms for all safety measures (including, but not limited to, passenger and employee masks, appropriate social distancing, and those measures ordered by the Court);
- e. Ordering an investigation as to how the County distributes its inventory of PPE to employees, including by job description, race, and ethnicity;
- f. Requesting that the Board of County Commissioners install a Safety Inspector General with scientific training to monitor compliance, and to publicly report on non-compliance on a daily basis; and

- g. Providing access to Plaintiffs to monitor and inspect all efforts to comply with the injunction.
2. To grant such other relief as this Court deems appropriate.

Dated: April 17, 2020

Respectfully Submitted,

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