

John R. Dacey (004962)  
Robert E. Craig III (034989)  
125 N. 2nd St., Suite 110, Box 521  
Phoenix, AZ 85004  
johndacey@abolishprivateprisons.org  
robertcraig@abolishprivateprisons.org  
602-737-0600

Thomas A. Zlaket (001819)  
310 S. Williams Blvd., Suite 170  
Tucson, AZ 85711  
tom@zlaketlaw.com  
520-750-0250

Lousene Hoppe (MN Bar No. 0387171) (pro hac vice)  
Jacob Baer (MN Bar No. 0391107) (pro hac vice)  
200 South 6th St #4000  
Minneapolis, MN 55402  
LHoppe@fredlaw.com  
JBaer@fredlaw.com  
612-492-7000

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Jeffrey Nielsen;  
and Brian Boudreau on behalf of  
themselves and all others similarly  
situated; and Arizona State Conference of  
the National Association for the  
Advancement of Colored People, as an  
organization and on behalf of its members,

Plaintiffs,

v.

David Shinn, Director, Arizona  
Department of Corrections, Rehabilitation  
& Reentry, in his official capacity,

Defendant.

Case No. 2:20-cv-01182-PHX-DLR (JZB)

**AMENDED CLASS ACTION  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 Plaintiffs allege as follows:

2 **INTRODUCTION**

3  
4 1. Private prisons have two fundamental ingredients: a profit motive and control  
5 over prisoners' lives. This combination yields consequences that are not just problematic  
6 and contrary to a legitimate penological policy; they also violate prisoners' constitutional  
7 rights.

8  
9 2. As for-profit corporations, the goal of private prison operators is just that: to  
10 make a profit. They make money by keeping more people in prison for longer terms. That  
11 means they are incentivized to create a system that increases the length of time someone  
12 remains incarcerated and increases the likelihood of recidivism, while cutting costs  
13 wherever they can: security, staffing, education programs, health care, etc. Private prisons  
14 can and do act on these incentives because they have de facto control over the prisoners'  
15 lives, no matter what any contractual or statutory provision may say.

16  
17 3. The private prison corporation CoreCivic (known at the time as CCA) gave  
18 a presentation to investors touting "high recidivism" as a "positive investment  
19 characteristic" that helped make the corporation a "Unique Investment Opportunity."  
20

21 4. The result of this system implemented by the Arizona Department of  
22 Corrections, Rehabilitation, and Reentry (ADCRR) is that each day of an individual's life  
23 is reduced to a unit of profit based on being locked in a cage. It is treating that person like  
24 an asset or, in other words, property.

25  
26 5. CoreCivic even uses "compensated man-days" as a metric to evaluate its  
27 financial performance. A "compensated man day" is the revenue the corporation generates  
28 and expenses it incurs for "one offender for one calendar day." CoreCivic concluded that

1 in 2020, it earned a profit of \$21.41 per compensated man-day.

2 6. Commodification of incarcerated individuals in this way is an assault on their  
3 fundamental dignity as fellow human beings. Arizona's private prison system violates the  
4 Eighth, Thirteenth, and Fourteenth Amendments to the U.S. Constitution.

### 5 **JURISDICTION**

6  
7 7. This Court has jurisdiction in accordance with 28 U.S.C. §§ 1331 and  
8 1343(a)(3). This civil action seeks declaratory and injunctive relief in accordance with 28  
9 U.S.C. §§ 2201(a), and 2202; 42 U.S.C. § 1983; the Eighth Amendment as applied to the  
10 states through the Fourteenth Amendment, the Thirteenth Amendment, and the Fourteenth  
11 Amendment of the United States Constitution.

### 12 **THE PARTIES**

13  
14 8. Plaintiff Jeffrey S. Nielsen ("Nielsen") is an Arizona resident, a citizen of the  
15 United States, and a prisoner of the Arizona Department of Corrections, Rehabilitation &  
16 Reentry ("ADCRR"). ADCRR has transferred Nielsen to various private prison facilities  
17 that are under contract with ADCRR including his current incarceration at Arizona State  
18 Prison - Phoenix West, which is owned, managed, and operated by The GEO Group.

19  
20 9. Plaintiff Brian Boudreau ("Boudreau") is an Arizona resident, a citizen of  
21 the United States, and a prisoner of ADCRR. Boudreau is incarcerated in Arizona State  
22 Prison - Florence West, a private prison under contract with ADCRR.

23  
24 10. Plaintiff Arizona State Conference of the National Association for the  
25 Advancement of Colored People ("Arizona State Conference NAACP") is a nonprofit  
26 membership association that was founded in 1915 and is headquartered in Phoenix,  
27 Arizona. It is the umbrella organization for the twelve branches and two youth councils of  
28

1 the Arizona State Conference NAACP. The Arizona State Conference NAACP's mission  
2 is to ensure equal protection under law for all persons, particularly African Americans, and  
3 in particular for persons in the criminal justice system, including those persons in private-  
4 for-profit prisons. The Arizona State Conference NAACP and its branches are also  
5 membership organizations that include individual members, some of whom have been or  
6 will be directly harmed by prison privatization as further described herein.

8 11. The Arizona State Conference NAACP advances its mission through a  
9 variety of means including engagement with the community and dedication of its resources  
10 through its activism, legal advocacy, lobbying before legislative bodies, outreach and  
11 public education efforts that seek enforcement of civil rights laws.

13 12. Plaintiff Arizona State Conference NAACP, in its own name and through its  
14 members dedicates its resources: to educating the public about the harms and failures of  
15 private-for-profit prisons; to advocating for persons incarcerated in private-for-profit  
16 prisons; to lobbying before legislative bodies in opposition to prison and jail privatization  
17 and legislation and contracting that are supported directly or indirectly by prison  
18 privatization interests; to participation in administrative proceedings to oppose  
19 privatization of prisons; to proposing and implementing national and Arizona-related  
20 priorities including, for example, a resolution to abolish private prisons that was adopted  
21 at the 2012 annual meeting of the national NAACP; and to supporting the 2019 resolution  
22 adopted by the national NAACP that states:

25 Abolish Private Prisons WHEREAS, the private prison industry profits from the  
26 incarceration and labor of citizens; and WHEREAS, private prisons consider  
27 incarcerated citizens as cash-cow stock; and WHEREAS, private prisons exploit  
28 prison labor for pennies on the dollar; and WHEREAS, the private prison  
industry redirects jobs from the public into their prisons; and WHEREAS,

1 statistics from the U.S. Department of Justice show that as of 2013, there were  
2 133,000 state and federal prisoners housed in privately-owned prisons in the  
3 United States of America; and WHEREAS, the private prison industry serves to  
4 undermine and pervert the U.S. Constitution and corrupt the Legislative and  
5 Judicial branches of our government to the point that these branches could no  
6 longer protect the citizens, thus making them vulnerable to loss of their freedom  
7 and livelihood for the sake of financial gains; and WHEREAS, private prisons  
8 get up to 40% federally compensated wage tax breaks, shifting the cost/burdens  
9 to the citizens while making themselves a profit; and WHEREAS, data on  
10 private prison conditions shows an increase in overall prison violence, which  
11 includes violence affecting those incarcerated and assaults against correctional  
12 officers and correctional staff. THEREFORE, BE IT RESOLVED that the  
13 NAACP shall work toward the abolition of private prisons.

14 Such national resolutions are also resolutions of plaintiff Arizona State Conference  
15 NAACP and its member organizations.

16 13. Defendant's continued use and proposed expansion of the use of private  
17 prisons harms plaintiff Arizona State Conference NAACP and its members in that such  
18 usage frustrates part of the core mission of plaintiff Arizona State Conference NAACP,  
19 makes it highly likely that some of its members or their family members will be  
20 incarcerated in private prisons, and forces plaintiff continually to divert resources toward  
21 working to abolish prison privatization and advocate for those members or members'  
22 friends and relatives incarcerated in for-profit prisons.

23 14. Plaintiff Arizona State Conference NAACP includes as part of its core  
24 mission the reduction of mass incarceration and the disproportionate impact of the criminal  
25 justice system on marginalized parts of the community including people of color. The  
26 political presence of the private prison industry in Arizona and the profit incentive to  
27 incarcerate privately frustrates plaintiff's mission and requires plaintiff to dedicate  
28 resources to the issue. For example, but for the interruption of the COVID pandemic, the  
Arizona State Conference NAACP would have completed the process of helping establish

1 an NAACP Arizona State Prison Chapter to focus on prison issues, including privatization.

2 15. Defendant David Shinn (“Shinn”) is the Director of ADCRR, an Arizona  
3 state agency. Director Shinn is sued in his official capacity. All actions of ADCRR set forth  
4 herein are attributable to Shinn and his predecessors and occurred in Arizona. Venue is  
5 proper pursuant to 28 U.S.C. § 1391.  
6

7 16. At all times relevant to this lawsuit, Defendant Shinn and his predecessors  
8 were acting in their official capacities under color of state law.  
9

10 17. The actions, omissions, events and transactions of ADCRR described herein  
11 were taken by, authorized by, and/or ratified by Defendant Shinn and his predecessors in  
12 their official capacities as Directors or Acting Directors of ADCRR.

13 18. Shinn was appointed Director by, and serves at the pleasure of, Arizona’s  
14 Governor. A.R.S. § 41-1603. Shinn assumed his responsibilities as Director in October  
15 2019, replacing Charles Ryan (“Ryan”).  
16

17 19. As Director of ADCRR, defendant Shinn is responsible for the overall  
18 operations and policies of ADCRR that include the incarceration of prisoners whose  
19 custody is committed to ADCRR. A.R.S. § 41-1604.  
20

## 21 **FACTUAL ALLEGATIONS**

### 22 ***ADCRR’s Lack Of Meaningful Oversight Over Private Entities***

23 20. ADCRR is responsible for managing Arizona’s prison system.

24 21. ADCRR sometimes contracts with private entities to operate some or all of  
25 the operation of a prison.  
26

27 22. When ADCRR contracts with private entities, it does not meaningfully  
28 oversee them.

1           23. As required by state law, ADCRR privatized medical care for prisoners in  
2 ADCRR's public prison facilities, contracting first with private vendor Wexford, which  
3 was replaced with Corizon, which was replaced by its current contractor, Centurion.

4           24. Inmates incarcerated in the Arizona prison system brought a lawsuit  
5 contending that ADCRR and its senior officials violated the Eighth Amendment, because  
6 they were deliberately indifferent to the serious harm their health care policies posed. *See*  
7 *Parsons v. Ryan* ("Parsons I"), 912 F.3d 486 (9th Cir. 2018); *Parsons v. Ryan* ("Parsons  
8 *II*"), 949 F.3d 443 (9th Cir. 2020); *Parsons v. Ryan* ("Parsons Contempt Order"), 2018  
9 WL 3239691 (D. Ariz. June 22, 2018).  
10

11           25. The parties settled on the eve of trial, and ADCRR agreed to comply with  
12 over 100 "Performance Measures" designed to improve ADCRR's health care system.  
13 *Parsons II*, 949 F.3d at 451.  
14

15           26. Those promises never came to fruition.

16           27. As the court explained, the "inescapable conclusion is that Defendants are  
17 missing the mark after four years of trying to get it right. Their repeated failed attempts,  
18 and too-late efforts, to take their obligation seriously demonstrate a half-hearted  
19 commitment." *Parsons Contempt Order*, 2018 WL 3239691, at \*11.  
20

21           28. The key problem was delegating the prisons' health care to a private  
22 company, which ADCRR did not meaningfully oversee.  
23

24           29. The Rule 706 court-appointed expert in that case concluded that  
25 "privatization of health services at ADC is an important barrier to compliance with PMs  
26 [the Performance Measures] and other risks to patient safety."  
27  
28

1           30. As the court explained, “Defendants’ management of Corizon does not  
2 indicate that they have any real ability to spur Corizon’s compliance with the Stipulation.”  
3 *Parsons Contempt Order*, 2018 WL 3239691, at \*9.

4           31. As the court explained, “the State turned to a private contractor which has  
5 been unable to meet the prisoner’s health care needs. Rather than push its contractor to  
6 meet those needs, the State has instead paid them more and rewarded them with financial  
7 incentives while limiting the financial penalties for non-compliance.” *Id.* at \*11.

8           32. The court sanctioned ADCRR’s officers to compel compliance with the law.

9           33. In the midst of rewarding the private health care company for providing such  
10 poor care that the Eighth Amendment, ADCRR expanded its use of entirely private prisons.

11           34. The use of private prisons has many of the same root problems as private  
12 prison health care and extends the constitutional violations to a prisoner’s liberty.

13           ***Arizona Privatizes Entire Prisons***

14           35. Arizona law authorizes ADCRR to contract the entire operation of a prison  
15 to private, for-profit prisons. *See* A.R.S. § 41-1609(B).

16           36. ADCRR in fact contracts with private, for-profit prison corporations that  
17 operate prisons inside and outside Arizona to incarcerate ADCRR prisoners, thereby  
18 delegating Arizona’s sovereign power of incarceration and punishment to private vendors.

19           37. ADCRR has contracted with multiple private prison corporations to operate  
20 prisons in Arizona, including The Geo Group, Inc., CoreCivic, Inc. and Management &  
21 Training Corporation (collectively, the “Private Prison Corporations”).

22           38. CoreCivic, Inc., formerly known as Corrections Corporation of America, is  
23 a for-profit Maryland corporation with principal executive offices in Tennessee.  
24  
25  
26  
27  
28



1           39.     The Geo Group, Inc., is a for-profit Florida corporation formerly known as  
2     Wackenhut Corrections with its principal executive offices in Florida.

3           40.     Management and Training Corporation is a for-profit Utah corporation with  
4     its principal executive offices in Utah.

5           41.     The Geo Group and CoreCivic are public corporations whose stocks are  
6     traded on the New York Stock Exchange. Their stocks have grown substantially in value  
7     during periods of actual growth of mass incarceration and from projections for further  
8     growth. Their stock values have declined dramatically when government has announced  
9     intentions to discontinue use of private prisons. The stock values are based in large part on  
10    projections of the numbers of prisoners who will be incarcerated in private prison cells.

11           42.     Upon information and belief, Arizona's Elected Officials Retirement Plan  
12    ("EORP") invests, directly or indirectly, in CoreCivic and The GEO Group stock. EORP  
13    is a statewide retirement system for elected officials in Arizona including State and county  
14    elected officials, legislators and judges, elected prosecutors and sheriffs. As such,  
15    significant decisionmakers in Arizona's system of criminal justice have financial interests  
16    in the profitability of private prisons.

17           43.     Such investments are improper or at least create the appearance of  
18    impropriety, fostering a lack of trustworthiness in the criminal justice system if not causing  
19    actual bias and unfairness.

20           44.     ADCRR currently contracts with at least the following private for-profit  
21    prisons for incarceration of Arizona state prisoners within the State of Arizona:  
22  
23  
24  
25  
26  
27  
28

1           a.     The Marana Community Correctional Treatment Facility, a  
2     minimum-custody private prison in Marana, Arizona that is privately operated and  
3     managed by Management and Training Corporation;

4           b.     Arizona State Prison-Phoenix West, a minimum-custody private  
5     prison in Phoenix, Arizona that is privately operated and managed by The Geo  
6     Group, Inc. or its subsidiary;

7           c.     Arizona State Prison-Florence West, a minimum-custody private  
8     prison in Florence, Arizona that is privately operated and managed by The Geo  
9     Group, Inc. or its subsidiary;  
10     Group, Inc. or its subsidiary;

11           d.     Red Rock Correctional Facility, a medium-security private prison in  
12     Eloy, Arizona that is privately operated and managed by CoreCivic, Inc.;

13           e.     Arizona State Prison – Kingman, a minimum/medium-security prison  
14     located in unincorporated Mohave County, Arizona that is privately operated and  
15     managed by The Geo Group, Inc. or its subsidiary; and,  
16     managed by The Geo Group, Inc. or its subsidiary; and,

17           f.     Central Arizona Correctional Facility, a medium-security private  
18     prison located in Florence, Arizona that is privately operated and managed by The  
19     Geo Group, Inc. or its subsidiary.  
20     Geo Group, Inc. or its subsidiary.

21           45.     Following conviction of certain crimes, the Superior Court of Arizona issues  
22     orders that sentence prisoners to specific punishments including commitment to the  
23     custody of ADCRR as state prisoners.  
24     custody of ADCRR as state prisoners.

25           46.     Once committed to the custody of ADCRR, persons convicted of crimes  
26     become prisoners of the State of Arizona.  
27     become prisoners of the State of Arizona.  
28

1           47. ADCRR executes these sentencing orders by incarcerating prisoners in  
2 public prisons and in private for-profit prisons and determines in each instance where each  
3 prisoner will be incarcerated.

4           48. ADCRR incarcerates thousands of ADCRR prisoners in prisons owned  
5 and/or operated by private for-profit corporations, as authorized by state laws. *See, e.g.,*  
6 A.R.S. §§ 41-1609, *et seq.*

7           49. ADCRR will continue to incarcerate thousands of people in private prisons  
8 into the foreseeable future.

9           50. At a minimum, ADCRR expects to utilize private for-profit prisons for a  
10 period of years under existing contracts.

11           51. Currently, ADCRR places approximately twenty percent (20%) or more of  
12 the prisoners committed to its custody, or approximately 7,500 people on any given day,  
13 in private prisons that are operated in Arizona by the Private Prison Corporations.

14           52. Many people incarcerated by ADCRR in public prisons are subject to being  
15 transferred to private prisons by ADCRR.

16           53. From time to time, ADCRR publishes requests for proposals to contract with  
17 private prison vendors. ADCRR awards contracts under a competitive bidding process  
18 upon receipt of acceptable proposals from for-profit prison corporations.

19           54. Contracts between ADCRR and prison corporations set forth the terms of the  
20 parties' relationships which include, *inter alia*, the placement and/or transfer of prisoners  
21 in private for-profit prisons. These contracts also specify the types of ADCRR prisoners  
22 who may be incarcerated in private prisons.

1           55. In general, the contracts between ADCRR and the Private Prison  
2 Corporations make the Private Prison Corporations responsible for the daily operation and  
3 management of the prisons and for the daily custody, control, incarceration, punishment,  
4 and well-being of each prisoner.

5  
6           56. Through public contracts procured by ADCRR with the Private Prison  
7 Corporations, ADCRR transfers the State of Arizona's sovereign power to incarcerate and  
8 punish prisoners in at least the following respects:

9           a. ADCRR grants the Private Prisons Corporations contracts for  
10 multiple years with multiple options to renew;

11  
12           b. ADCRR delegates the power to incarcerate and punish, including  
13 having full custody and control of prisoners;

14           c. ADCRR delegates the power to use force, including deadly force,  
15 against prisoners, and to strip search prisoners and seize property and take other  
16 invasive actions through staff that are not government law enforcement personnel;

17  
18           d. ADCRR delegates the power to "write up" prisoners for incidents and  
19 activities that affects discipline, segregation, seclusion, privileges, work and pay,  
20 daily life and liberty within the prisons, early release time credits, the possibility of  
21 parole, and release from custody. Some private operators adopt facility policies that  
22 are not consistent with ADCRR policies, causing prisoners to be written up  
23 frequently for petty matters;

24  
25           e. ADCRR delegates the power to decide the daily schedule of each  
26 individual prisoner, including sleep, recreation, meals, lights-out, location  
27 assignment within the prisons, and other activities;  
28

1           f.       ADCRR delegates the power to regulate access to religious services,  
2       clergy, prisoner contact with family members and attorneys, and education and  
3       training opportunities that will enable prisoners to reenter society successfully after  
4       serving their sentences and to gain early release credits based on education and other  
5       positives activities within prisons;  
6

7           g.       ADCRR guarantees 90-100% occupancy levels to some Private  
8       Prison Corporations, which financial guarantees influence, if not dictate ADCRR  
9       decisions on prisoner placements and transfers;  
10

11          h.       ADCRR fills private prison cells with a pre-determined number of  
12       ADCRR prisoners to avoid having to pay for empty private prison cells because of  
13       the occupancy guarantees; and  
14

15          i.       ADCRR enables the Private Prison Corporations to make profits for  
16       the corporations and their shareholders from the incarceration of prisoners, *i.e.*,  
17       incarceration of prisoners is an ADCRR-authorized means of generating corporate  
18       profits by turning prisoners into economic assets for the corporations.  
19

20       57.       The private for-profit prison contract model creates incentives to increase  
21       corporate profits and corporate executive compensation under the ADCRR contracts, such  
22       as by lowering costs to operate prisons, with such cost-cutting measures conflicting with  
23       safety, security and the individual welfare of those within the private prisons.  
24

25       58.       While the statutory scheme and some of the contracts with the private  
26       companies purport to require the ADCRR to oversee various aspects of the private prisons,  
27       that oversight is not regularly occurring. To the extent any ADCRR oversight exists, that  
28       oversight is not meaningful.

1 *Private Prison Corporations Have Perverse Incentives*

2 59. The highest priority of the Private Prison Corporations is to maximize profit  
3 and market share.

4 60. That private-prison business model creates perverse incentives, including but  
5 not limited to sustaining mass incarceration and high recidivism, growth of private prisons,  
6 high occupancy levels in private prisons, longer incarceration periods, and not facilitating  
7 the successful reentry of prisoners. These incentives conflict with public interests in  
8 criminal justice, taxpayer interests, family reunification and individual liberty.  
9

10 61. The Private Prison Corporations have higher revenues, profits, and executive  
11 compensation when they incarcerate higher numbers of prisoners each day. The more  
12 people a private prison incarcerates and the longer those people are incarcerated for, the  
13 more revenue a Private Prison Corporation earns. The more the private prisons can cut  
14 costs of incarceration, the greater the Private Prison Corporations' margins, which means  
15 greater profits. The Private Prison Corporations therefore are incentivized to create a  
16 system that increases the length of time someone remains incarcerated, which increases the  
17 likelihood of recidivism.  
18

19 62. CoreCivic (known at the time as Corrections Corporation of America or  
20 "CCA") gave an earnings presentation in or around 2011 covering why the corporation was  
21 a "Unique Investment Opportunity". A copy of selected slides from the presentation are  
22 attached as **EXHIBIT A** and incorporated by this reference.  
23

24 63. That presentation touted that a "positive investment characteristic" of the  
25 corporation was that "demographic projections point to growing prison populations:"  
26  
27  
28

## Industry Highlights



### CCA operates in an industry with positive investment characteristics.

- Large and under-penetrated market – less than 10% of prison populations are in partnership beds. <sup>(1)</sup>
- Increasing interest in privatizing existing facilities to obtain cost savings.
- Limited competition with high barriers to entry.
  - CCA and largest competitor manage approximately 75% of partnership beds.
  - Significant capital requirements and established track record required to compete effectively.
- Public prisons are overcrowded and demographic projections point to growing prison populations.
- Constrained public-sector construction with substantial lead times to deliver new capacity.
- Future demand driven by a lack of prison beds and compelling value proposition.
- Recession resistant.
- Potential of accelerated growth in inmate populations following the recession.

(1) Bureau of Justice Statistics, *Prisoners in 2009 Report* and *Office of Detention Trends Statistics*. Includes State, BOP, USMS and ICE populations, excludes Jail and Juvenile populations.

15

64. Among those demographic trends that CoreCivic touted would make the corporation a good investment was “[h]igh recidivism,” with studies showing that 43%-45% of individuals released from prison returning to prison within three years:

## Demographic Trends



- High recidivism
  - According to a recent Pew Study<sup>(1)</sup>, about 45% of individuals released from prison in 1999 and more than 43% released from prison in 2004, were returned to prison within three years.
- One in every 100 U.S. adults are in prison or jail. <sup>(2)</sup>
- Prison populations should grow as U.S. population grows:
  - U.S. adult population is projected to grow by approximately 18.4 million from 2011 to 2016. <sup>(3)</sup>
    - At current imprisonment rates <sup>(4)</sup>, prison populations would grow by about 92,500 between 2011 and 2016, or by more than 15,400 per year, on average.

(1) Pew Study, "State of Recidivism Report."

(2) Pew Foundation Charitable Trusts 2008 Center on the States, "One in 100: Behind Bars in America."

(3) U.S. Census Bureau

(4) BJS Prisoners in 2009

65. To save money and increase profits, the Private Prison Corporations are also incentivized in the operation of their facilities to reduce programs and services, including but not limited to recreation, educational and job-training opportunities, health care, and food. They are similarly incentivized to reduce security.

66. These incentives are large. The Private Prison Corporations earn billions of dollars in revenue annually. For example, in its most recent Form 10-K Annual Report, CoreCivic reported earning \$1.9 billion in revenue in 2020. A copy of CoreCivic's Feb 22, 2021 Form 10-K Annual Report is attached as **EXHIBIT B** and incorporated by this reference.

67. The value of a Private Prison Corporation's stock is materially affected by the number of prisoners they incarcerate, by projections of how many prisoners will be



1 incarcerated and detained in their facilities, and by projections on further opportunities for  
2 growth.

3 68. ADCRR's contracts to incarcerate people privately enhance the value of the  
4 prison corporations and enhance the ability of the corporations to encourage investment  
5 and to borrow and expand.  
6

7 69. The relationship between stock value (as well as profits and salaries) and the  
8 number of human beings who have been commodified as assets creates a substantial  
9 conflict of interest between the for-profit prisons on the one hand, and the constitutional  
10 obligations of ADCRR and constitutional rights of Plaintiffs and the plaintiff class on the  
11 other. The effects of this system-embedded conflict of interest are often obscured in  
12 individual cases. Thus, this conflict must be eliminated on a systemic basis.  
13

14 70. The Private Prison Corporations earn a profit by obtaining more assets in the  
15 form of commodified human beings, holding them in prison as long as possible, taking  
16 actions which may reduce their opportunity of parole or early release, and reducing  
17 expenditures for such things as medical care, dental care, education and training, access to  
18 clergy, chaplains, and non-religious counselors, and recreation. Increased profits are also  
19 accomplished by reducing the cost of workers in the prison by providing as little training,  
20 education, and certification as possible for staff, hiring the least expensive staff available,  
21 and operating the prisons with the smallest number of employees possible, which in turn  
22 can create dangerous and unhealthy conditions for prisoners and staff.  
23  
24

25 71. On information and belief, both the executive management of prison  
26 corporations and the wardens of private prisons receive greater compensation when they  
27 enhance prison corporation profits and stock values.  
28

1           72.     These financial incentives create serious and unreasonable risks of erroneous  
2     deprivations of liberty for each prisoner in private prisons.

3           73.     Furthermore, elements of the private prison industry have been moved by  
4     such profit incentives to influence public policies that contribute greatly to mass  
5     incarceration and especially its disproportionate effect on African Americans, Hispanics  
6     and Native Americans. For example, representatives of the Private Prison Corporations  
7     participated in the American Legislative Exchange Council's legislative committee that  
8     produced model legislation for much longer prison terms under "truth in sentencing,"  
9     "three strikes" and "mandatory minimums" legislation and, on information and belief,  
10    helped finance the passage of Arizona's notorious SB 1070, which was largely struck down  
11    by the Supreme Court.

12           74.     These financial incentives also create a "revolving door" through which  
13    high-level personnel move from public corrections to private corrections and from private  
14    corrections to public corrections and higher levels of government, further creating a system  
15    with incentives that dilute public incentives to strictly monitor private prison operators.

16           75.     ADCRR's reliance on the Private Prison Corporations to incarcerate 20% or  
17    more of the State's prisoners, and the potential burden of replacing a prison contractor,  
18    create disincentives for the ADCRR to closely monitor its private prison contractors and to  
19    sanction them for noncompliance with the contracts.

20           76.     On information and belief, ADCRR does not adequately monitor its private  
21    prison contractors or sanction them for noncompliance with the contracts.

22           77.     Such disincentives conflict with the safety, security and welfare of those  
23    incarcerated in private prisons and those who work in private prisons.

***The Private Prison Corporations Act On Their Financial Self-Interest***

78. The Private Prison Corporations have acted and will continue to act on their financial self-interest.

79. On information and belief, the Private Prison Corporations in fact created a system that by design, increases the length of time prisoners are incarcerated and increases recidivism.

80. The Private Prison Corporations are able to operate this way, because they have control of all aspects of the prisoners' lives. The Private Prison Corporations' operational control gives it an almost unlimited ability to manipulate, *inter alia*, freedom within the prison, release dates, access to clemency and parole, and likelihood of recidivism.

81. On January 26, 2021, President Biden issued Executive Order 14006 directing the U.S. Attorney General not to renew contracts with privately operated criminal detention facilities. 76 Fed. Reg. 7483. A copy the executive order is attached as **EXHIBIT C** and incorporated by this reference.

82. The executive order states: "To decrease incarceration levels, we must reduce profit-based incentives to incarcerate by phasing out the Federal Government's reliance on privately operated criminal detention facilities. We must ensure that our Nation's incarceration and correctional systems are prioritizing rehabilitation and redemption."

83. In other words, President Biden's executive order acknowledges that the profit-based incentives of private prisons lead to increased incarceration levels. It also acknowledges that private prison corporations are not prioritizing rehabilitation and redemption. They are instead prioritizing profits.

1           84.     There are many reasons why placement in a private prison leads to longer  
2 terms of incarceration and increased recidivism:

3           85.     The ADCRR delegates to private prisons the power “write up” prisoners for  
4 incidents and activities that affects, among other things, their early release time credits, the  
5 possibility of clemency, and release from custody.  
6

7           86.     Because of the incentives associated with longer terms of incarceration,  
8 prisoners in private prisons are generally “written up” more frequently and with more  
9 severe punishments.  
10

11           87.     Regardless of any contractual or statutory provisions that purport to provide  
12 accountability to ADCRR, the operators of the Arizona private prisons—not ADCRR—  
13 are the true decisionmakers for whether a prisoner should be written up and the severity of  
14 any punishment.  
15

16           88.     To the extent ADCRR provides oversight over the decisions to write-up a  
17 prisoner for any alleged infraction, that oversight is not meaningful. Nor is any opportunity  
18 to challenge a “write up” or its consequences.  
19

20           89.     Additionally, upon information and belief, ADCRR and the Arizona Board  
21 of Executive Clemency make decisions affecting prisoners’ lives and liberty that are  
22 dependent on information reported to ADCRR by private prison corporations.  
23

24           90.     There are numerous examples of private prison placement leading to longer  
25 terms of incarceration and greater guilty findings on disciplinary charges:

26           91.     A 2016 report by the Office of the Inspector General of the U.S. Department  
27 of Justice reviewing federal private prisons concluded that private prisons had more “guilty  
28 findings on inmate discipline charges, and selected categories of grievances.” Office of the

1 Inspector General, *Review of the Federal Bureau of Prisons' Monitoring of Contract*  
2 *Prisons* (Aug. 2016), available at [https://www.oversight.gov/sites/default/files/oig-](https://www.oversight.gov/sites/default/files/oig-reports/e1606.pdf)  
3 [reports/e1606.pdf](https://www.oversight.gov/sites/default/files/oig-reports/e1606.pdf). The report is attached as **EXHIBIT D**. The corporations that are the  
4 subject of the report were the same Private Prison Corporations those Arizona uses. *See*  
5 Ex. D. at i.  
6

7 92. One study of Mississippi's private prisons found that "inmates in private  
8 prison serve about four to seven percent larger fractions of their sentences, or 85 to 90 extra  
9 days for the average prisoner." Anita Mukherjee, *Impacts of Private Prison Contracting*  
10 *on Inmate Time Served and Recidivism*, Am. Econ. J.: Econ. Pol. 21 (Jul. 30, 2020). The  
11 study is attached as **EXHIBIT E** and incorporated by this reference.  
12

13 93. The New Mexico Corrections Department found that prisoners at the  
14 CoreCivic facility (known then as CCA) lost good time credits eight times more frequently  
15 than prisoners in a state institution. Lucas Anderson, *Kicking the National Habit: The Legal*  
16 *and Policy Arguments for Abolishing Private Prison Contracts*, 9 Pub. Cont. L.J. 113, 136  
17 n.53 (2009).  
18

19 94. A study by authors of at the School of Economic Science at Washington State  
20 University concluded: "Using instrumental variables regressions on state and individual  
21 data from 1989 to 2008, we find evidence showing a rise in private prison beds per capita  
22 increases the number of incarcerated individuals per capita and average sentence lengths."  
23 Gregmar I. Galinato and Ryne Rohla, *Do privately-owned prisons increase incarceration*  
24 *rates?* Labour Economics 67 (2020) 101908.  
25  
26

27 95. There are other ways placement in private prison in Arizona leads to longer  
28 terms of incarceration and increased recidivism.

1           96. As a cost-cutting measure, the Arizona private prisons do not offer the same  
2 programs that are offered in ADCRR public prisons—including but not limited to  
3 educational, vocational, rehabilitative, and religious programs— which in turn leads to  
4 longer lengths of incarceration and increased recidivism, or is expected to do so.

5  
6           97. Arizona private prisons have the authority to regulate access to religious  
7 services, clergy, prisoner contact with family members and attorneys, education and  
8 training opportunities, and other positives activities within prisons; that will enable  
9 prisoners to reenter society successfully after serving their sentences.

10  
11           98. For example, the private prison ASP – Florence West does not offer  
12 programs that are offered in ADCRR public prisons through which some prisoners may  
13 qualify for reductions in their sentences and writes up prisoners who do not work, causing  
14 or potentially causing such prisoners to serve more time.

15  
16           99. In other words, mere placement in ASP – Florence West can lead to a longer  
17 term of incarceration.

18           100. In response to a question about the lack of a rehabilitative program at his  
19 private facility, an employee at an Arizona private prison stated that the Private Prison  
20 Corporations are not in the business of offering beneficial programs but are in the business  
21 of earning a profit.

22  
23           101. The more limited programs and services at Arizona private prisons lead to  
24 the prisoners being less prepared to successfully reenter society after serving their sentences,  
25 leading to higher recidivism.

26  
27           102. This consequence of prison privatization is seen outside of Arizona as well.  
28

1           103. As President Biden’s executive order states: “Incarcerated individuals should  
2 be given a fair chance to fully reintegrate into their communities, including by participating  
3 in programming tailored to earning a good living, securing affordable housing, and  
4 participating in our democracy as our fellow citizens. However, privately operated criminal  
5 detention facilities consistently underperform Federal facilities with respect to correctional  
6 services, programs, and resources.” Ex. C at 1.

8           104. Inmates in Arizona private prisons therefore face longer sentences, increased  
9 recidivism, and substandard prison conditions because they are incarcerated in a private  
10 prison.

12 ***Private Prisons Inadequate Training And Staffing***

13           105. Appropriate training and staffing of prisons is critical to every aspect of  
14 operating a prison, including for example the safety and security of all inside the prisons,  
15 managing behaviors, education, recidivism and contraband.

17           106. Prison staff must be well-trained and vetted. Public prison personnel receive  
18 much more training and proper vetting before they are put into the field as corrections  
19 officers than are private prison security guards.

21           107. Arizona law and ADCRR rules do not require that private prison security  
22 officers meet the training and certification standards required of ADCRR corrections  
23 officers. As a result, private prison security officers have less training and experience than  
24 ADCRR corrections officers, which affects safety and security within the private prisons.  
25 Furthermore, on information and belief, private prison guards lack civil service protection  
26 and grievance processes, which makes them more vulnerable to pressure to violate or  
27 ignore rules in order to increase corporate profits.  
28

1           108. Prison staff need experience. Public corrections officers generally are more  
2 experienced than security guards in private prisons, especially in handling violent and other  
3 emergency circumstances.

4           109. Prison staff need proper credentials for certain jobs. Private prisons under  
5 contract with ADCRR often have personnel running programs inside the prisons for which  
6 they are not qualified, and sometimes use teaching personnel as security guards due to short  
7 staffing.  
8

9           110. Prison staff need adequate compensation. Private security personnel  
10 generally are not paid as well as public corrections officers for stressful jobs and do not  
11 have public employee pensions, resulting in higher turnover with correspondingly less-  
12 experienced and less-trained staff. Staff at many private prisons barely make living wages  
13 such that they work 12, 16 and 20 hour shifts for overtime pay, often many days in a row.  
14 Working conditions in some private prisons are so bad that many staff feel they are not  
15 paid enough to risk their own safety.  
16  
17

18           111. Prison staff need proper rest and time off. Due to staff shortages and  
19 difficulty recruiting personnel, private prison staff more frequently work overtime and  
20 double shifts, which is not safe for staff or people incarcerated.  
21

22           112. Prison staff need to know rules and protocols. Experienced staff that know  
23 and uniformly enforce rules and protocols help manage expectations inside the prisons,  
24 which lowers stress and violence. The absence of consistency inside the prisons contributes  
25 to violence, which can also lead to prisoners serving more time.  
26

27           113. Prison staff need to be able to depend on their co-workers. Insufficient  
28 staffing levels, higher turnover among staff, less training and less experience among private



1 prison security staff all contribute to less dependability, which in turn leads to more  
2 lockdowns and restrictions on prisoners' freedoms within the prisons.

3 114. Prison staff need to be consistent with prisoners. Experienced and well-  
4 trained staff are better able to manage behavior within the prisons.

5 115. Staffing needs to be at proper levels for every shift and at every post. Private  
6 prisons experience greater levels of staff shortages than public prisons generally, which  
7 causes lockdowns, less freedom and less safety and security, as well as over-worked staff.  
8 Understaffing leads to other problems as well, such as delays in providing food to  
9 prisoners. Some private prisons are so short-staffed that they do not discipline employees,  
10 even for absences, for fear of losing personnel.

11 116. Prison staff work in high stress environments and must be alert. A moment's  
12 lapse in alertness can lead to disastrous results. High stress work and long hours are in  
13 conflict with safety, security and staff retention. Private prisons have more staff vacancies  
14 generally.

15 117. Prison staff must maintain administrative control of the facility. Absence of  
16 such control leads to chaos and tragedy, such as occurred during the riots in the privately-  
17 operated Kingman Prison.

18 118. Public corrections officers take loyalty oaths to uphold the Constitution and  
19 to protect and serve. The first loyalty of private security guards is to their corporate prison  
20 employers and they are not agents of the state. Public wardens are concerned about safety  
21 and security. In some instances for private prison executives and wardens, cutting costs  
22 and leaving a percentage of staff vacancies open causes higher profits and correspondingly  
23 higher compensation for some private prison personnel.

1           119. On information and belief, prisoners in Arizona private prisons experience  
2 greater deprivations of liberty and safety compared to prisoners in public prisons due to  
3 higher levels of incident reporting, violence, lockdowns, and serving more of their  
4 sentences, while under the supervision of less trained and experienced security staff.  
5

6           120. In short, Arizona private prisons are less safe and less secure simply because  
7 they are private. When violence has occurred in private prisons, the private operators have  
8 to call in ADCRR officers, because private prison staff are not able to handle such  
9 occurrences.  
10

11           121. This consequence of privatizing the operation of prisons is also seen outside  
12 of Arizona. As President Biden’s Executive Order explained, “the Department of Justice’s  
13 Office of Inspector General found in 2016, privately operated criminal detention facilities  
14 do not maintain the same levels of safety and security for people in the Federal criminal  
15 justice system or for correctional staff.” Ex. C at 1.  
16

17           122. More specifically, the Office of the Inspector General report stated: “We  
18 found that, in most key areas, contract prisons incurred more safety and security incidents  
19 per capita than comparable BOP institutions and that the BOP needs to improve how it  
20 monitors contract prisons in several areas.” Ex. C at i; *see also id.* at 14. Private prisons  
21 “had higher rates of assaults, both by inmates on other inmates and by inmates on staff.”  
22 *Id.* at ii. They also had “more frequent incidents of . . . uses of force [and] lockdowns.” *Id.*  
23 at 44.  
24

25 ***Individuals In Private Prisons Are Commodified***  
26

27           123. The profit incentive of the private prisons and their control over the prisoners  
28 combine to commodify human beings.

1           124. In accordance with its contracts, ADCRR sets the price it will pay per  
2 prisoner and pays the Private Prison Corporations on a per diem basis; *i.e.*, ADCRR pays  
3 a predetermined daily rate to each prison corporation for each day each prisoner occupies  
4 a cell or bed in a private prison. In such manner ADCRR monetizes each prisoner by  
5 making each prisoner a unit of revenue and profit to the Private Prison Corporations.  
6

7           125. ADCRR's contracts to incarcerate prisoners are assets of the Private Prison  
8 Corporations that the corporations use to entice investments and use as collateral to borrow  
9 and grow their businesses.  
10

11           126. In this sense, ADCRR enables the Private Prison Corporations to commodify  
12 human beings just as private jails in the nineteenth-century South commodified slaves. The  
13 value of those jails, and the economic reputation of the jails' owners, was tied to how many  
14 slaves they incarcerated. For example, R.G. Dun and Company (the predecessor firm to  
15 Dun and Bradstreet) evaluated the credit worthiness of owners of slave jails and traders in  
16 slaves just as they evaluate private prison corporations today.  
17

18           127. ADCRR tolerates sub-standard contract performance from the Private Prison  
19 Corporations. Such performance adversely affects prisoners, depriving them of equal  
20 protection and due process and further reducing them to commodities who are used for the  
21 profit of the prison.  
22

23           128. Defendant Shinn's responsibilities include protecting and respecting the  
24 rights of persons committed to ADCRR's custody, which rights include but are not limited  
25 to:  
26

- 27           a. the right not to be treated as a slave or subjected to the conditions of  
28 slavery;

1           b.     the right to be free from cruel and unusual punishment;

2           c.     the right to be free from impermissible financial incentives that  
3     endanger life, liberty and welfare; and

4           d.     the right to equal protection under the law.

5  
6     129. Defendant's actions have monetized each prisoner that ADCRR commits to  
7     private prisons for incarceration in at least the following respects:

8           a.     ADCRR pays the Private Prison Corporations to punish prisoners  
9     through incarceration;

10          b.     ADCRR sets the price that it pays the Private Prison Corporations for  
11     each day each prisoner is incarcerated in a private prison cell;

12          c.     ADCRR guarantees specific volumes of prisoners for placement in  
13     private prisons through contracts for periods of years;

14          d.     The Private Prison Corporations derive revenues and profits from  
15     each day each prisoner is incarcerated in their cells;

16          e.     The value of the Private Prison Corporations increases when they  
17     incarcerate more prisoners and decreases when they incarcerate fewer;

18          f.     A prisoner's presence in a private prison generates more revenue and  
19     profit to a private prison corporation the longer the prisoner remains in the private  
20     prison;

21          g.     ADCRR's contracts with the Private Prison Corporations are publicly  
22     procured through competitive bidding. In such circumstances the volume of  
23     prisoners' physical presence, custody, and control in prison cells is awarded through  
24     public auction;

1           h.       The Department’s contracts for private prisons are valuable assets of  
 2       the Private Prison Corporations that: i. increase the value of the corporations; ii.  
 3       increase the value of their publicly-traded stocks; iii. are used as collateral for loans  
 4       for operations and growth to incarcerate more prisoners; iv. are used to encourage  
 5       investment in the prison corporations;  
 6

7           i.       Private prison publicly-traded stock values are affected materially by  
 8       projections of profitability, which in turn are affected by projections on the numbers  
 9       of private prison cells (or beds) that will be used to incarcerate prisoners such as the  
 10      Plaintiffs. In such manner each prisoner and each projected future prisoner represent  
 11      units of profit that impact prison corporation stock value.  
 12

13       130.   To see how the prisoners are commodified, one needs to look no further than  
 14      the Private Prison Corporations own public securities filings. For example, CoreCivic’s  
 15      most recent Annual Report states that a “key performance indicator” it uses is a  
 16      “compensated man-day.” Ex. B at 69.  
 17

18       131.   A “compensated man-day” represents “the revenue we generate and  
 19      expenses we incur for one offender for one calendar day.” *Id.* In 2020, CoreCivic generated  
 20      \$84.71 per “compensated man-day.” *Id.* At the same time, its “compensated man-day”  
 21      expenses totaled \$64.06. *Id.* That meant the company earned a profit of \$20.65 per  
 22      “compensated man-day,” representing a 24.4% margin. *Id.* The company’s “average  
 23      compensated population” was 57,392 people daily that year. *Id.*  
 24

25      ***States Are Increasingly Moving Away From Private Prisons***  
 26

27       132.   Private prisons are a relatively new phenomenon, beginning in force only in  
 28      the 1980s.

1           133. But now, increasing numbers of states have moved to ban private prisons,  
2 ending their experiments with this system.

3           134. The legislative purpose accompanying the New York law outlawing private  
4 prisons explains: “hungry, bottom line adventurers appear ready to take the public money.”  
5 New York Bill Jacket, 2007 S.B. 4118, Ch. 202; *see also* 730 Ill. Comp. Stat. Ann. 140/2.  
6

7           135. Other states that banned private prisons include Illinois, Iowa, Nevada,  
8 Washington, and California. As for the states without prohibitions, nearly half the  
9 remaining states have no private prisons.  
10

11           136. The federal government has decided not to renew Department of Justice  
12 contracts with privately operated criminal detention facilities. Ex. C at 1.

13           137. Additionally, numerous religious groups have adopted resolutions  
14 denouncing private prisons.  
15

16           138. Resolutions of the United Methodist Church, the Presbyterian Church, the  
17 U.S Conference of Catholic Bishops, Catholic Bishops of the South, the Episcopal Church,  
18 and the Unitarian Universalist Association, along with statements from the American Bar  
19 Association, the American Correctional Officer Intelligence Network, the National  
20 Association of Criminal Defense Lawyers, the Japanese Americans Citizens League, and  
21 the NAACP are attached as **EXHIBIT F** and incorporated by reference.  
22

23           139. The Supreme Court of Israel has held that placement at private prisons  
24 “violates the constitutional rights to personal liberty and human dignity.” H CJ 2605/05  
25 *Academic Center of Law and Business v. Minister of Finance* at 34 Isr. Nov. 19, 2009). A  
26 copy of the decision is attached as **EXHIBIT G** and incorporated by reference.  
27  
28

1 *Slavery and Private Prisons*

2 140. Private prisons bear many similarities to historic slavery, and their origins  
3 can be traced to historic slavery.

4 141. In the history of the American Colonies and the United States before the  
5 enactment of the Thirteenth Amendment, the terms “slavery” and “slaves” were not limited  
6 to forced labor of people from Africa and their descendants. The understanding of those  
7 terms included, but was not limited to, the characteristics discussed in paragraphs 143 to  
8 148 below.

9 142. The institution of slavery itself, ownership of slaves, and the slave trade were  
10 protected by law and enforceable in courts of law.

11 143. Mere possession and control of slaves made slaves valuable property to those  
12 who captured slaves and sold them to slave traders. In this circumstance the slaves were  
13 not used by their captors for labor.

14 144. Mere possession and control of slaves made slaves valuable property to those  
15 engaged in the slave trade, which included jailing slaves and transporting them to America.  
16 In this circumstance the slaves were not used by slave traders for labor.

17 145. In the possession and control of slave traders, each slave was valuable cargo  
18 to the traders. Indeed, slave traders purchased insurance for the value of their slave cargo  
19 in the event that numbers of their slave property perished before the traders were able to  
20 deliver them to slave markets or private buyers in America.

21 146. As demand for slaves grew, the slave trade became a major economic  
22 enterprise, profitably trafficking in human beings in bondage. Indeed, in 1660 the English  
23 Parliament chartered the Royal Africa Company that dominated the slave trade for many  
24  
25  
26  
27  
28

1 years and had powerful stockholders including the future King James II and John Locke.  
2 More slave markets appeared in almost all Atlantic, Caribbean and Gulf Coast ports where  
3 slaves were auctioned publicly or sold privately. The goal of slave traders was to bring as  
4 many slaves as possible to the New World to be sold.

5  
6 147. Slave traders had complete possession and control of slaves and used private  
7 crews and guards to control their slave cargo in order to safely bring their human inventory  
8 to markets and ensure their profits. The more slaves the traders delivered to markets, the  
9 greater the slave traders' profits.

10  
11 148. The slave traders extracted value from their slaves not through labor but by  
12 simply owning them and having possession of them as chattel property for purposes of  
13 sale, and by using them as assets for collateral for loans, against which the lender could  
14 obtain security interests that were protected by law and could be enforced in the courts.  
15 Indeed, appraisers such as the predecessor firm to Dun & Bradstreet evaluated the value of  
16 slave portfolios in order for borrowers and lenders to establish the value of loan collateral.

17  
18 149. Courts of law recognized that the slave trader's mere ownership and  
19 possession of slaves were valuable and insurable property interests. For example, *Gregson*  
20 *v Gilbert*, 3 Doug 232, 99 ER 629, [1783] EngR 85 (May 22, 1783) concerned a legal  
21 dispute regarding the slave trader's claim for insurance coverage for his lost cargo at sea.  
22 The captain threw some 200 slaves overboard because he "claimed" he was running out of  
23 water and this was a legitimate salvage act – jettison some cargo to save the rest. The  
24 English appellate court confirmed that if the ship's captain was justified in murdering 200  
25 of his slaves by throwing them into the ocean in order to avoid a greater loss of his slave  
26 assets, then the insurance company would have to pay the claim.  
27  
28



1           150. Slavery existed in the United States because it was protected by law. The  
2 Constitution of the United States and federal legislation protected the slave owner's  
3 ownership and possessory rights to his slaves. *See, e.g.*, U.S. Constitution, Article IV,  
4 Section 2, Clause 3 and the Fugitive Slave Acts of 1793 and 1850. Various laws of the  
5 states protected slave ownership and the right to dispose of the slaver as property as the  
6 slave masters saw fit. The Supreme Court of the United States protected slavery and the  
7 slave owner's legal right to his slave property in many cases, most famously in *Dred Scott*  
8 *v. Sandford*, 60 U.S. 393 (1857).  
9

10           151. Indeed, before the Civil War even free black people could be sentenced to  
11 slavery or re-enslavement for conviction of criminal offenses. *See, e.g.*, *An Act to Amend*  
12 *the Several Laws Concerning Slaves*, LAWS OF VIRGINIA, December 1805, Chap. 63, Sec.  
13 10; AN ACT REDUCING INTO ONE, THE SEVERAL ACTS CONCERNING  
14 SLAVES, FREE NEGROES AND MULATTOES *The Revised Code of Virginia, 1819*,  
15 *Chap. 111*, sec. 63.  
16  
17

18           152. For decades after adoption of the Thirteenth Amendment and well into the  
19 Twentieth Century the practices of actual slavery and quasi-slavery through convict leasing  
20 and peonage contracts thrived in parts of the former Confederacy, all to the enrichment of  
21 private interests. These forms of slavery grew "under the radar" to most people and elected  
22 leaders in much of the United States.  
23

24           153. After adoption of the Thirteenth Amendment, various southern states  
25 adopted laws commonly known as The Black Codes that criminalized black life in order  
26 to control free blacks and to re-enslave them through the criminal justice system. For  
27 example, former slaves could be arrested, charged, convicted and sentenced to slave labor  
28

1 as punishment for the “crime” of leaving their former masters’ plantations without having  
2 employment to go to.

3 154. Convict leasing became a new form of quasi-slavery in the late Nineteenth  
4 century. Tens of thousands of blacks – some former slaves, many the children of former  
5 slaves – were incarcerated and forced to work directly for the state, or were leased to  
6 businesses which profited from their labor, while at the same time benefiting the state,  
7 which both received money for the convict’s labor and was relieved of the cost of feeding,  
8 housing, and providing clothing for the convicts.  
9

10 155. Courts of law actively participated in slave auctions when they imposed fines  
11 and auctioned payment of fines to businessmen and plantation owners, many of whom were  
12 not required by courts to actually pay the fines. In return for having their fines paid,  
13 prisoners were then ordered into the custody of private interests if they entered into labor  
14 contracts for years (peonage) by which the employers became in effect their slave masters.  
15 These private interests had the ability to manipulate when and whether these peon laborers  
16 had satisfied their debts, thereby extending labor under peonage for years or until many of  
17 the laborers died. Elected officials, law enforcement and judges were corrupted and  
18 essential participants in the post-Civil War peonage system that continued well into the  
19 Twentieth century, and that also swept up white, Latino and Asian laborers.  
20  
21  
22

23 156. In the late 1970s and the early 1980s, America’s “War of Drugs” and other  
24 “tough on crime” policy changes greatly increased the number of people being held in  
25 America’s prisons and jails, particularly African Americans and Latinos. The same is true  
26 of Arizona’s jail and prison populations.  
27  
28

1           157. At the same time the private prison industry was birthed in the United States,  
2 starting with Kentucky and then growing into more states with more private prison  
3 facilities. For decades the private prison industry grew “under the radar” of most  
4 Americans.

5           158. As prison privatization became more and more profitable from the private  
6 incarceration of prisoners, the footprint of the industry expanded to contracts with the  
7 majority of the states and multiple federal agencies, sanctioned by state and federal laws.  
8 *See, e.g.,* ARS 41-1609 *et seq.*

9           159. The two largest private prison corporations are publicly traded and have  
10 added influential people to their boards of directors and purchased powerful political  
11 influence through campaign contributions, including to American Presidents, Governors,  
12 and members of Congress and state legislatures.

13           160. Governmental prison authorities, including the ADCRR, assigns prison  
14 numbers to identify every individual committed to their custody, which numbers stay with  
15 the prisoners wherever they are incarcerated. Government agencies, including ADCRR,  
16 then invite bids from private corporations to transfer certain numbers and types of prisoners  
17 to private prisons. Prisoners may be transferred among multiple private prisons under legal  
18 authority.

19           161. Mere possession and control of prisoners by prison corporations makes the  
20 prisoners valuable assets to the corporations. Prison corporations extract value from each  
21 prisoner in custody simply by having custody and control of the prisoners and are able to  
22 calculate their net profit from each day a prisoner is merely confined in their prisons.

1           162. Furthermore, the contracts between ADCRR and the prison corporations are  
2 valuable assets of the corporations, backed by the number of people in private prison cells,  
3 from which prison executives and shareholders derive value, and that the corporations use  
4 as collateral to borrow and to entice investment.

5  
6           163. Prisoners again became the subject of great transfers of wealth to private  
7 interests when the industry experienced a 1600% increase between 1990 and 2005 in the  
8 numbers of prisoners incarcerated in private prisons. The private prison industry quietly  
9 became the fourth-largest prison system in the United States. The two largest prison  
10 corporations are based in Tennessee and Florida. For its part, Arizona became one of the  
11 top five states for its incarceration of people in corporate prisons.

12  
13           164. The private prison industry actively participated in the development of model  
14 legislation that caused many more people to go to prison and to be kept in prison for much  
15 longer periods of time. Once having custody and control of prisoners, private prisons are  
16 then able to manipulate conduct within the prisons and the writing of incident reports that  
17 directly affect dates of release and length of time served.

18  
19           165. In 2011, juvenile court judges in Philadelphia were sentenced to prison terms  
20 for taking several million dollars in bribes to send mostly black teenagers to private  
21 institutions who otherwise would have been allowed to go home. In Mississippi, the former  
22 director of the DOC is accused of taking tens of millions in bribes to award private prison  
23 contracts, including to The GEO Group and CoreCivic.  
24  
25  
26  
27  
28

***The Plaintiffs Claims Are Ripe.***

166. All individual plaintiffs complained to ADCRR that their incarceration in private for-profit prisons violates the Constitution of the United States and demanded that they either be transferred to public prisons or be released.

167. Defendant Shinn or his predecessor Ryan denied each plaintiff's demand, stating that such placements in private prisons are lawful and appropriate.

168. Such denials by Shinn or his predecessor Ryan set forth uniform ADCRR policy and are in accord with state laws that authorize incarceration of ADCRR prisoners in private prisons.

169. Thus, defendant Shinn and his predecessor Ryan have acted and will continue to act in a consistent manner in denying similar demands from other prisoners, now and in the foreseeable future.

170. Defendant Shinn's placement of prisoners in privately-operated prisons for profit violates the U.S. Constitution in at least the following respects:

a. By substituting a prisoner-corporation relationship for a state-prisoner relationship, by relegating prisoners to the status of human inventory, and by making prisoners slaves to the Private Prison Corporations, the State violates fundamental rights guaranteed to Plaintiffs by the Constitution, including the Eighth Amendment prohibition on cruel and unusual punishment, as incorporated to the State of Arizona through the Fourteenth Amendment, the Thirteenth Amendment prohibition against slavery, and the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

c. Such private incarceration creates financial incentives to design and operate facilities that incarcerate more people for longer periods of time, provide fewer rehabilitative programs for successful re-entry to society, and discourage release of prisoners, resulting in never-ending cycles of incarceration, parole, and re-incarceration that profit the private jailer and are contrary to the public interests in healthy people, families and communities, lower taxes, and less crime.

172. Plaintiffs' incarceration in private for-profit prisons is a continuing violation of Plaintiffs' rights under the Constitution of the United States.

173. The constitutionality of incarcerating people in private for-profit prisons is a question of law in this litigation that is of common interest to all parties.

174. Individual Plaintiffs bring this lawsuit as a class action under Federal Rules of Civil Procedure, Rule 23(a) and (b)(2) for the requests for declaratory and injunctive relief on behalf of themselves individually and all others similarly situated.

37

1 All prisoners of the Arizona Department of Corrections, Rehabilitation &  
2 Reentry who are or may be placed by the Department in a private prison for  
incarceration.

3 176. Individual Plaintiffs reserve the right to revise the class definition based upon  
4 information learned subsequent to the filing of this action.

5 ***Class Certification Requirements under Rule 23(a) and (b)(2)***

6  
7 177. **Rule 23(a)(1) - Numerosity.** The class is so numerous that joinder of all  
8 members is impracticable. Plaintiffs do not know the exact size of the class because that  
9 information is within the control of Defendant and is continually changing. However, upon  
10 information and belief, the class members number in the thousands and the proposed class  
11 is open-ended; *i.e.*, many future prisoners are included whose numbers are unknown.

12  
13 178. Membership in the class is readily ascertainable from ADCRR records. A  
14 report on the ADCRR website dated May 11, 2020 indicates that ADCRR incarcerates  
15 7,922 people in private prisons. In a single year, this means that prisoners will spend  
16 approximately 2,891,530 days and nights in private prisons.

17  
18 179. **Rule 23(a)(2) - Commonality.** There are questions of law or fact common  
19 to the Class that relate to the constitutionality of prison privatization.

20  
21 180. **Rule 23(a)(3) - Typicality.** The claims asserted by Plaintiffs are typical of  
22 the claims of the Class, in that the representative Plaintiffs, like all Class Members, are  
23 subject to and impacted by Defendant's actions, specifically incarceration and punishment  
24 in private for-profit prisons. Each member of the proposed Class is or will be subject to  
25 continuing violations of constitutional rights by Defendant's actions.

26  
27 181. **Rule 23(a)(4) - Adequacy.** Plaintiffs will fairly and adequately protect the  
28 interests of the Class. Plaintiffs have retained attorneys experienced in class and complex

1 litigation, including litigation under the United States Constitution and 42 USC § 1983.  
 2 Plaintiffs and their counsel intend to vigorously prosecute this litigation. Neither Plaintiffs  
 3 nor their counsel have interests that conflict with the interests of the other class members.

4 182. **Rule 23(b)(2).** The action satisfies the requirements of Rule 23(b)(2) because  
 5 Defendant has acted and refused to act on grounds generally applicable to the Class,  
 6 thereby making appropriate declaratory and final injunctive relief with respect to each  
 7 Class Member.  
 8

## 9 CAUSES OF ACTION<sup>1</sup>

### 10 COUNT 1 11 Equal Protection Of Law

12 183. Plaintiffs incorporate by reference the allegations in all of the above  
 13 paragraphs as though set forth fully herein.  
 14

15 184. The Fourteenth Amendment to the United States Constitution is enforceable  
 16 pursuant to 42 U.S.C. § 1983 and provides that no state shall deny any person within its  
 17 jurisdiction equal protection of law. U.S. Const. amend. XIV, § 1.  
 18

19 185. Under the Equal Protection Clause of the Fourteenth Amendment, violation  
 20 of prisoners' fundamental rights and the disparate treatment of prisoners held by private  
 21 prisons is presumptively unconstitutional and subject to heightened scrutiny.  
 22

23 186. In Arizona and as elsewhere throughout the United States, mass incarceration  
 24 falls disproportionately on people of color, including African Americans, Hispanics and  
 25

---

26  
 27  
 28 <sup>1</sup> To the extent these claims need to be categorized as “facial” or “as applied,” Plaintiffs  
 are bringing both facial and as applied challenges.



1 Native Americans. This impact is reflected in the disproportionate representation of people  
2 of color in ADCRR prisons, both public and private.

3 187. Prisoners in private prisons are not provided equal protection of law, in  
4 violation of the Equal Protection Clause of the Fourteenth Amendment.

5 188. Alternatively, even if heightened scrutiny did not apply, the Equal Protection  
6 Clause would still be violated.

7 189. The statutes authorizing ADCRR to contract with private prisons do not bear  
8 a rational relationship the stated purpose of cost savings (or to any other legitimate state  
9 purpose).

10 190. Private prisons in Arizona do not provide a cost saving.

11 191. Private prisons are more expensive for Arizona than public prisons.

12 192. Shinn and the Arizona Legislature know that private prisons do not provide  
13 a cost savings and are in fact more expensive for Arizona than public prisons.

14 193. The statutory scheme is supposed to require private prisons to offer a cost  
15 savings. *See* A.R.S. § 41-1609.01(F)-(G).

16 194. In order to evaluate compliance with that requirement, the Arizona Office of  
17 the Auditor General was originally required to perform biennial audits of the private and  
18 public prisons' respective costs. A.R.S. § 41-1609.01(G), (K) (2003 version).

19 195. The first report found that private prisons were, in fact, slightly more  
20 expensive than public prisons. State of Arizona Office of the Auditor General, *Department*  
21 *of Corrections – Prison Population Growth* 20-21 (2010), available at  
22 [https://www.azauditor.gov/sites/default/files/10-08\\_0.pdf](https://www.azauditor.gov/sites/default/files/10-08_0.pdf). The report is attached as

23 **EXHIBIT H** and incorporated by reference.

1           196. After that first report, the biennial audit requirement was eliminated. *See*  
2 2012 Ariz. Legis. Serv. Ch. 302 (S.B. 1531) § 41-1609.01 (eliminating “biennial  
3 comparison” requirement), thereby depriving the public of the information. Unlike public  
4 corrections, private prisons are not subject to FOIA and state public records laws.

5  
6           197. The privatization statutes do not bear a rational relationship to a legitimate  
7 state purpose.

8           198. The privatization statutes are irrational and/or plainly arbitrary.

9  
10                                   **COUNT 2**  
                                  **Substantive Due Process**

11           199. Plaintiffs incorporate by reference the allegations in all of the above  
12 paragraphs as though set forth fully herein.

13  
14           200. The Fourteenth Amendment to the United States Constitution is enforceable  
15 pursuant to 42 U.S.C. § 1983 and provides that no state shall deprive any person within its  
16 jurisdiction of life, liberty and property without due process of law or the equal protection  
17 of the law. U.S. Const. amend. XIV, § 1.

18  
19           201. The Arizona laws that authorize and/or require that ADCRR contract with  
20 private vendors infringe on the Plaintiffs’ liberty and their fundamental right not to be  
21 treated as a commodity, as property, or as a slave and thus deny Plaintiffs substantive due  
22 process.

23  
24           202. Alternatively, even if heightened scrutiny did not apply, the Due Process  
25 Clause would still be violated.

1           203. The statutes authorizing ADCRR to contract with private prisons do not bear  
2 a rational relationship to the stated purpose of cost savings (or to any other legitimate state  
3 purpose).

4           204. Private prisons in Arizona do not provide a cost saving.

5           205. Private prisons are more expensive for Arizona than public prisons.

6           206. Shinn and the Arizona legislature know that private prisons do not provide a  
7 cost savings and are in fact more expensive for Arizona than public prisons.  
8

9           207. The statutory scheme is supposed to require private prisons to offer a cost  
10 savings. *See* A.R.S. § 41-1609.01(F)-(G).  
11

12           208. In order to evaluate compliance with that requirement, the Arizona Office of  
13 the Auditor General was originally required to perform bi-annual audits of the private and  
14 public prisons' respective costs. A.R.S. § 41-1609.01(G), (K) (2003 version).  
15

16           209. The first report found that private prisons were, in fact, more expensive than  
17 public prisons. Ex. H at 20-21.

18           210. After that first report, the bi-annual audit requirement was eliminated. *See*  
19 2012 Ariz. Legis. Serv. Ch. 302 (S.B. 1531) § 41-1609.01 (eliminating "biennial  
20 comparison" requirement).  
21

22           211. The privatization statutes do not bear a rational relationship to a legitimate  
23 state purpose.

24           212. The privatization statutes are irrational and/or plainly arbitrary.  
25  
26  
27  
28

**COUNT 3**  
**Procedural Due Process**

213. Plaintiffs incorporate by reference the allegations in all of the above paragraphs as though set forth fully herein.

214. Defendant's actions have deprived and will continue to deprive Plaintiffs and class members of rights secured by the Constitution of the United States.

215. The Fourteenth Amendment to the United States Constitution is enforceable pursuant to 42 U.S.C. § 1983 and provides that no state shall deprive any person within its jurisdiction of life, liberty and property without due process of law or the equal protection of the law. U.S. Const. amend. XIV, § 1.

216. The Arizona laws that authorize and/or require that ADCRR contract with private vendors implicate important liberty interests, introduce a significant and unreasonable risk of improper infringement on those interests, and do not provide attendant efficiency to the government, all in violation of Plaintiffs' procedural due process rights.

***Placement At A Private Prison***

217. The decision to place an inmate at a private prison as opposed to a public one does not have constitutionally-sufficient procedural protections.

218. Plaintiffs have a protected liberty interest in avoiding assignment at a private prison.

219. Assignment at an Arizona private prison imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.

220. On information and belief, conditions at an Arizona private prison are worse. Among other things, there are higher levels of incident reporting, violence, lockdowns

1 while under the supervision of less trained and experienced security staff which affects  
2 safety and security. Individuals in private prisons are commodified, their life being reduced  
3 to a series of compensated man-days.

4       221. Placement at an Arizona private prison is the decision of the ADCRR (§ 41-  
5 1609.02) and is indefinite within the time period of a prisoner's sentence.

6       222. On information and belief, placement at an Arizona private prison leads to  
7 increased terms of incarceration and increased recidivism.

8       223. The increased term of incarceration is due to, among other things, the private  
9 prisons' decisions directly affecting early release credits, the possibility of parole, and  
10 release from custody.

11       224. Insufficient procedural safeguards exist for a decision (deciding whether an  
12 inmate is placed in a private prison) with such important consequences.

13       ***Structural Bias***

14       225. That the private prisons make decisions regarding matters affecting a  
15 prisoner's release date and ability to successfully reenter society while having a financial  
16 incentive to keep them incarcerated longer and more frequently is a procedural due process  
17 violation.

18       226. Privatization of prisons creates biased jailers and prison administrators who  
19 have financial incentives that are in conflict with the release of prisoners, in violation of  
20 protected liberty interests of persons incarcerated, including Plaintiffs, all in violation of  
21 the Due Process Clause of the United States Constitution.

1           227. The Arizona laws that authorize and/or require that ADCRR contract with  
2 private vendors create a biased adjudication system that deprives Plaintiffs of Due Process.  
3 *See, e.g.,* ARS 41-1609 et seq.

4           228. The Private Prison Corporations put pressure on private prison staff to  
5 maintain a profit for their employers.  
6

7           229. The private prison employees are not principally motivated by a desire to  
8 further the interests of the public at large. Rather, as employees of a private corporation  
9 seeking to maximize profits, correctional officers act, at least in part, out of a desire to  
10 maintain the profitability of the corporation for whom they labor, thereby ensuring their  
11 own job security and the value of any stock options they may receive as compensation. *See*  
12 *McKnight v. Rees*, 88 F.3d 417, 424 (6th Cir. 1996).  
13

14           230. The private prison employees are the true decisionmakers on matters  
15 affecting the length of prisoners' term of incarceration and ability to successfully reenter  
16 society.  
17

18           231. The combination of the power to incarcerate people for longer and the  
19 financial incentive to do is a conflict of interest that violates due process.  
20

21           232. It is a scheme that offers a possible temptation to the average person to forget  
22 the burden of proof required and/or which might lead the average person not to hold the  
23 balance nice, clear, and true between the prison and the accused.  
24

25                                   **COUNT 4**  
                                  **Slavery And Involuntary Servitude**

26           233. Plaintiffs incorporate by reference the allegations in all of the above  
27 paragraphs as though set forth fully herein.  
28

1           234. Defendant Shinn, his predecessors, and ADCRR transfer and assign  
2 prisoners such as Plaintiffs to the Private Prison Corporations to enable prison corporations  
3 to generate revenues and profits for the monetary benefit of corporate owners, shareholders  
4 and executive management, and to enable the State to relieve itself of daily corrections  
5 responsibility for such prisoners while granting private interests dominion over the  
6 prisoners and the fruits of prisoners' economic value and labor, thus rendering such  
7 prisoners, including Plaintiffs and the class members, as slaves to the Private Prison  
8 Corporations in violation of the Thirteenth Amendment to the Constitution of the United  
9 States.  
10

11  
12           235. Arizona laws that authorize and/or require prison privatization and  
13 ADCRR's contracts with private prison vendors abuse the criminal justice system to create  
14 a form of slavery by which the incarceration of the many, including Plaintiffs, enriches the  
15 few private interests in violation of the Thirteenth Amendment.  
16

17           236. Defendant Shinn is treating prisoners as property, and is authorizing Private  
18 Prison Corporations to treat prisoners as property, which degrades the human dignity of  
19 each prisoner by monetizing them and turning each incarcerated person into an economic  
20 asset as a means by which Private Prison Corporations generate revenues and profits.  
21 Under this privatized system, prisoners become fungible assets. To the Private Prison  
22 Corporations, any prisoner can be substituted for another prisoner and generate the same  
23 revenues and profits for the corporation. In this respect, all prisoners are treated as assets  
24 and commodities. These actions perpetuate slavery and the abuse of prisoners' liberty to  
25 extract financial gain for private interests, some of those gains in turn become political  
26 campaign contributions to those elected officials who support prison privatization.  
27  
28

1           237. The Thirteenth Amendment to the United States Constitution says: “Neither  
2 slavery nor involuntary servitude, except as a punishment for crime whereof the party shall  
3 have been duly convicted, shall exist within the United States, or any place subject to their  
4 jurisdiction.”

5  
6           238. This prohibition of slavery is absolute and limits the actions of all  
7 governments and private persons or corporations.

8           239. ADCRR’s use of private for-profit prisons violates the Thirteenth  
9 Amendment’s prohibition of slavery.

10           240. ADCRR’s use of private for-profit prisons violates the Thirteenth  
11 Amendment’s prohibition of involuntary servitude.

12  
13           241. The Private Prison Corporations require prisoners to perform a variety of  
14 labor, depending on the facility, sometimes with the threat of incident reports for failure to  
15 comply. A court sentence, ADCRR placement, and private prison work dictated to  
16 prisoners (including the requirements to perform janitorial services) mirrors the post-Civil  
17 War slavery and quasi-slavery -- i.e., convict leasing and convict peonage systems in the  
18 South.

19  
20           242. Alternatively, ADCRR’s use of private prisons violates the Thirteenth  
21 Amendment’s “punishment clause” that only permits punishment by government.

22  
23           243. Alternatively, ADCRR causes prisoners in private prisons to be treated like  
24 slaves and subjected to slave-like conditions in violation of the Thirteenth Amendment to  
25 the U.S. Constitution.  
26  
27  
28



**COUNT 5**  
**Cruel and Unusual Punishment**

244. Plaintiffs incorporate by reference the allegations in all of the above paragraphs as though set forth fully herein.

245. The Eighth Amendment as incorporated to the states through the Fourteenth Amendment guarantees to all citizens, including Plaintiffs and members of the Class that no cruel and unusual punishments will be inflicted upon them.

246. The Eighth Amendment is intended to preserve the basic concepts of dignity, civilized standards, humanity, and decency. It serves as a barometer of these evolving standards in our society and prohibits punishments that are incompatible with these standards.

247. Modern understandings of human rights recognize that treating Plaintiffs as property and subjecting Plaintiffs to jailers that profit from incarceration and that have disincentives to see Plaintiffs released is analogous to slave jails before the Thirteenth Amendment, is both cruel and unusual, and violates each plaintiff's human dignity. *See, e.g.,* U.N. Universal Declaration of Human Rights, Article 4 (1948) (categorically prohibiting slavery and the slave trade in whatever form); Executive Order 14006 (Exhibit C); H CJ 2605/05 *Academic Center of Law and Business v. Minister of Finance* at 34 Isr. Nov. 19, 2009) (Exhibit G) (concluding that placement at private prisons "violates the constitutional rights to personal liberty and human dignity."); Exhibit F (resolutions of major faith communities and human rights organizations in the United States).

248. Plaintiffs' incarceration in private for-profit prisons constitutes cruel and unusual punishment in violation of the Eighth Amendment of the U.S. Constitution as

1 incorporated to the states through the Due Process Clause of the Fourteenth Amendment.  
2 The Eighth Amendment contemplates that punishment may only be inflicted by  
3 government and that punishment by profit-motivated private agents violates human and  
4 constitutional rights between the individual and his government in a manner that is  
5 personally degrading and dehumanizing, and is therefore both cruel and unusual.  
6

7 **PRAYER FOR RELIEF**

8 Plaintiffs request judgment on their Complaint as follows:

- 9 A. An Order certifying the Plaintiff Class in accordance with Rule 23(a) and  
10 (b)(2), F.R.C.P.;
- 11 B. A declaratory judgment that Arizona statutes that authorize prison  
12 privatization are unconstitutional;
- 13 C. A declaratory judgment that prison privatization and the resulting contracts  
14 violate the Constitution of the United States;
- 15 D. An injunction that forbids Defendant Shinn and his successors from placing  
16 prisoners in private prisons and that requires Shinn to begin the process of  
17 discontinuing ADCRR's use of private prisons;
- 18 E. An award to Plaintiffs for their reasonable attorneys' fees and costs; and  
19 F. An award to Plaintiffs for such other and further relief that is just and  
20 appropriate under the circumstances.  
21  
22  
23  
24  
25  
26  
27  
28

1 Dated this 6th day of April, 2021

2 By: /s/ Lousene M. Hoppe

3 John R. Dacey (004962)  
4 johndacey@abolishprivateprisons.org  
5 Robert E. Craig III (034989)  
6 robertcraig@abolishprivateprisons.org

7 Abolish Private Prisons, Inc.  
8 125 N 2nd Street, Suite 110, Box 521  
9 Phoenix, AZ 85004  
Tel: 602-737-0600

10 Thomas Zlaket (001819)  
11 310 S. Williams Blvd., Suite 170  
12 Tucson, AZ 85711  
tom@zlaketlaw.com  
Tel: 520-750-0250

13 Lousene Hoppe (MN Bar No. 0387171)  
14 (*pro hac vice*)  
15 Jacob Baer (MN Bar No. 0391107)  
16 (*pro hac vice*)  
17 200 South 6th St #4000  
18 Minneapolis, MN 55402  
LHoppe@fredlaw.com  
JBaer@fredlaw.com  
19 612-492-7000  
20  
21  
22  
23  
24  
25  
26  
27  
28