

1 SHARON L. ANDERSON (SBN 94814)  
 County Counsel  
 2 THOMAS L. GEIGER (SBN 199729)  
 Assistant County Counsel  
 3 thomas.geiger@cc.cccounty.us  
 PATRICK L. HURLEY (SBN 174438)  
 4 Deputy County Counsel  
 patrick.hurley@cc.cccounty.us  
 5 COUNTY OF CONTRA COSTA  
 651 Pine Street, Ninth Floor  
 6 Martinez, California 94553  
 Telephone: (925) 335-1800  
 7 Facsimile: (925) 335-1866

8 Attorneys for Defendants  
 COUNTY OF CONTRA COSTA, DAVID LIVINGSTON, and  
 9 CHRIS FARNITANO

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12

13 JANICE ALTMAN, et al.,  
 14 Plaintiffs,  
 15 v.  
 16 COUNTY OF SANTA CLARA, et al.,  
 17 Defendants.  
 18

No. 20-CV-02180 (JST)

**DECLARATION OF CHRIS FARNITANO  
 IN SUPPORT OF OPPOSITION TO  
 PLAINTIFFS' REQUEST FOR  
 TEMPORARY RESTRAINING ORDER**

19 I, CHRIS FARNITANO, declare as follows:

20 1. I have personal knowledge of the facts set forth in this declaration. If called as a  
 21 witness, I could and would testify competently to the matters set forth herein. I am a defendant in  
 22 this action in my official capacity.

23 2. I received my undergraduate degree and my Doctor of Medicine degree from Duke  
 24 University. I was a National Association of Public Hospitals and Health Systems fellow in 2010-11.  
 25 I completed my residency in Family Medicine at Merrithew Memorial Hospital in Martinez,  
 26 California. I was the chair of the Family Medicine Department at Contra Costa Regional Medical  
 27 Center ("CCRMC") as well as the Ambulatory Care Medical Director there.  
 28

1           3. I am currently the Health Officer for Contra Costa County, as well as each of the 19  
2 cities located within Contra Costa County. I have held the Health Officer position since 2018. In  
3 that role, I provide leadership on public health issues for all of Contra Costa County. I was the  
4 Deputy Health Officer for the County from 2015-2018.

5           4. The mission of the Public Health division of the Health Services Department of  
6 Contra Costa County is to promote and protect the health and well-being of the individual, family,  
7 and community in Contra Costa County and its approximately 1.1 million residents. None of the 19  
8 cities in Contra Costa County has a health department; they rely on the Public Health division to  
9 perform essential public health functions for their cities and residents.

10           5. The novel coronavirus involved in the current global pandemic, or COVID-19, is  
11 present in Contra Costa County in significant numbers. The County recorded its first case of the  
12 virus on March 3, 2020. Community transmission is believed to be widespread throughout the  
13 County, and limited testing capacity means that case counts represent only a small portion of actual  
14 cases. Recent studies suggest that the COVID-19 infection rate is higher than previously thought.

15           6. On March 16, 2020, the County had confirmed 35 cases, with three deaths occurring  
16 in neighboring Bay Area jurisdictions. To slow virus transmission, protect the most vulnerable, and  
17 prevent the health care system from being overwhelmed, and after consideration of guidance from  
18 the Centers for Disease Control and Prevention, the California Department of Public Health, and  
19 other public health officials throughout the United States and around the world, on that date, I issued  
20 a shelter-in-place order directing all individuals living in the County to shelter at their place of  
21 residence, except to engage in certain essential activities. Other counties, including Santa Clara  
22 County, issued similar shelter-in-place orders.

23           7. The March 16, 2020 Order prohibited all public and private gatherings of any number  
24 of people occurring outside a household or living unit, except for the limited purposes of performing  
25 Essential Activities, such as obtaining food and medication, visiting a health care professional, or  
26 obtaining products needed to maintain safety and sanitation. The Order prohibited all travel, except  
27 Essential Travel. All businesses with a facility in the County, except Essential Businesses were  
28 required to cease all activities except certain Minimum Basic Operations. The Order provided

1 definitions of these key terms.

2 8. The number of confirmed cases in Contra Costa County increased from 32 to 205  
3 between March 15, 2020 and March 29, 2020. Contra Costa County reported its first COVID-19  
4 related death on March 20, 2020. By March 29, 2020, there were three deaths in the County  
5 attributable to the virus. While the prior shelter-in-place orders had been effective in reducing the  
6 rate of transmission of the virus, we needed to do more to slow down its continued spread.

7 9. On March 31, 2020, I issued an updated shelter-in-place order that superseded the  
8 March 16, 2020 Order. The March 31, 2020 Order was designed to increase social distancing to  
9 further slow transmission of COVID-19. That order extended the shelter-in-place requirements  
10 through May 3, 2020.

11 10. The March 31 shelter-in-place order clarified essential business and activities and  
12 is more restrictive in a number of ways, including: (1) mandating social distancing requirements; (2)  
13 requiring essential businesses to create and implement a social distancing protocol; (3) requiring  
14 essential businesses to maximize the number of employees who work from home; (4) requiring  
15 essential businesses to scale down operations to their essential component only; (5) finding that  
16 businesses that supply products needed for people to work from home are no longer essential  
17 businesses; (6) prohibiting the use of playgrounds, dog parks, public picnic areas, and similar  
18 recreational areas; (7) prohibiting the use of shared public recreational facilities; (8) prohibiting  
19 sports or activities that require use of shared equipment except involving members of the same  
20 household; and (9) prohibiting most construction -- residential and commercial. Other counties in  
21 the Bay Area issued substantially similar shelter-in-place orders, including Santa Clara County.

22 11. When I and the other Bay Area Health Officers issued shelter-in-place orders on March  
23 31, 2020, the public health emergency had substantially worsened since March 16, 2020. There was  
24 a significant escalation in the number of positive cases, hospitalizations, and deaths, and a  
25 corresponding increasing strain on health care resources. At the same time, evidence suggested that  
26 the restrictions imposed by the prior orders were slowing the rate of increase in community  
27 transmission and confirmed COVID-19 cases.

28 ///

1           12. Although the number of COVID-19 cases in our region has not peaked, the shelter-in-  
2 place orders have slowed the spread of the virus. When the March 16, 2020 Order was put in place,  
3 the number of new cases was growing rapidly. But after six weeks, the number of reported new  
4 cases has slowed.

5           13. The number of confirmed cases in Contra Costa County increased from 205 to 805  
6 between March 29, 2020 and April 24, 2020. By April 24, 2020, there were 25 deaths in the County  
7 attributable to the virus. While the prior shelter-in-place orders had been effective in reducing the  
8 rate of transmission of the virus, we needed to maintain those orders to sustain the progress we had  
9 made to slow down the spread of the virus,

10           14. In light of the continued increase in the number of new cases reported in the County and  
11 the relative lack of comprehensive testing, on April 29, 2020, I issued an order extending the March  
12 31, 2020 shelter-in-place order through May 31, 2020. However, the shelter-in-place order was  
13 modified to allow some low-risk activities to resume while maintaining social-distancing measures.  
14 The updated order did not allow the reopening of non-essential indoor businesses as those business  
15 involve a higher risk of transmission of the virus as it is more difficult to maintain social distancing  
16 at indoor businesses.

17           15. In making the decision to issue the shelter-in-place orders, we considered reports from  
18 other parts of the world, particularly China and Italy, regarding the course of the COVID-19  
19 pandemic, the speed at which infections multiplied, the impact of those infections on the health of  
20 the populace and on scarce health care resources, and the need to develop and implement strategies  
21 to limit the spread of the virus. We also considered recommendations from experts in the field of  
22 public health, including the World Health Organization, on best practices to interrupt the spread of  
23 the virus. We also worked in cooperation with health officers from other counties in the Bay Area in  
24 developing the shelter-in-place orders.

25           16. One of the most important indicators of a slowing of the spread of COVID-19 is the  
26 “doubling rate” of virus infections, i.e., how many days it takes for the number of cases to double. A  
27 lower doubling rate means the disease is spreading rapidly; while a higher doubling rate means it is  
28 taking longer for the number of cases to double, as the spread slows down. In mid-March, the

1 County's case numbers doubled approximately every 4-5 days. The current doubling rate is  
2 somewhere around every 23 days. This means that the rate of spread has slowed thanks to County  
3 residents complying with the shelter-in-place orders.

4 17. The shelter-in-place orders were issued based on evidence of continued significant  
5 community transmission of COVID-19 within the County and throughout the Bay Area; continued  
6 uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and  
7 best practices regarding the most effective approaches to slow the transmission of communicable  
8 diseases generally and COVID-19 specifically; evidence that the age, condition, and health of a  
9 significant portion of the population of the County places it at risk for serious health complications,  
10 including death, from COVID-19; and further evidence that others, including younger and otherwise  
11 healthy people, are also at risk for serious outcomes.

12 18. Contra Costa County, the Bay Area, the United States, and the rest of the world have  
13 not seen a public health threat like this in more than 100 years. I -- along with health officials from  
14 all over the world -- have concluded that the best course of action is a shared commitment to  
15 adhering to preventative measures, including staying at home, social distancing, and hand washing.  
16 We do not take lightly asking people to stay home. We understand that people are suffering from  
17 real impacts on their lives and livelihoods. We each have a part in slowing the spread of this virus.  
18 Right now, the most important factor in reducing the spread of the virus is to reduce contact among  
19 people to prevent or inhibit community transmission.

20 I declare under penalty of perjury under the laws of the United States of America that the  
21 foregoing is true and correct. Executed at Martinez, California on April \_\_, 2020.

22  
23 Dated: 5/1/2020

24   
25 \_\_\_\_\_  
26 CHRIS FARNITANO, M.D.  
27  
28