

Nos. 21-36024 & 36025

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UGOCHUKWO GOODLUCK NWAUZOR, FERNANDO AGUIRRE-URBINA,
individually and on behalf of those similarly situated,
Plaintiffs-Appellees,

and

STATE OF WASHINGTON,
Plaintiff-Appellee,

v.

GEO GROUP, INC.,
Defendant-Appellant,

On Appeal from the United States District Court for the
Western District of Washington
Civil Case Nos. 3:17-cv-05769 & 3:17-cv-05806
(Honorable Robert J. Bryan)

**BRIEF OF LA RESISTENCIA, FAIR WORK CENTER, AND
PROF. ANGELINA SNODGRASS GODOY
AS AMICI CURIAE IN SUPPORT OF APPELLEE**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), undersigned counsel for amici curiae make the following disclosures. La Resistencia, the Fair Work Center, and Professor Angelina Snodgrass Godoy (collectively, “Amici”) are not publicly held corporations, do not issue stock, and do not have parent corporations and consequently there exist no publicly held corporations which own 10 percent or more of their stock.

STATEMENT REGARDING CONSENT TO FILE

Undersigned counsel certifies that the parties have consented to the filing of the amicus brief pursuant to FRAP 29(a)(2).

FRAP 29 STATEMENT

Amici certify that, pursuant to Federal Rules of Appellate Procedure 29(a)(4)(E), no party’s counsel authored this brief in whole or in part, nor did any party or party’s counsel contribute money that was intended to fund preparing or submitting this brief. No person—other than the amici curiae, their members, or their counsel—contributed money that was intended to fund preparing or submitting this brief.

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STATEMENT OF INTEREST

La Resistencia, the Fair Work Center, and Professor Angelina Snodgrass Godoy (collectively, “Amici”) respectfully submit this brief in support of Plaintiffs – Appellees.

La Resistencia is a grassroots, volunteer-based group founded in March 2014 when people detained at the Northwest Detention Center (NWDC) reached out to volunteers for support as they began the largest hunger strike to ever take place in an immigration detention center. La Resistencia is led by people with direct experience of the detention and deportation system in Washington State. La Resistencia maintains daily communication with people in detention through a phone hotline, emails, visits, and public demonstrations. By following the leadership and experience of those detained, La Resistencia shines a spotlight on the daily inhumane detention conditions at the NWDC. La Resistencia’s mission is to end all detentions and deportations in Washington State and to shut down the NWDC.

The Fair Work Center is a non-profit, non-partisan community organization based in Seattle, Washington, dedicated to assisting low-wage workers in understanding and enforcing their workplace rights. The Fair Work Center Legal Clinic is a non-profit, community-based law firm that provides legal advocacy for

low-income and vulnerable people in workplace matters. The Clinic's services include free legal consultations, individual and group representation, and representation in class action litigation. The Clinic's substantive focus is on federal, state and local employment law with particular attention to wage and hour regulation. The Clinic is therefore expert in the application of the federal, state and local minimum wage laws, especially as those relate to low-wage workers in Washington.

Angelina Snodgrass Godoy, Ph.D., is Helen H. Jackson Chair in Human Rights and Director of the Center for Human Rights at the University of Washington, where she is a tenured member of the faculty appointed in International Studies and Law, Societies and Justice. A sociologist by training, Prof. Godoy is the author of two books published by Stanford University Press, as well as multiple peer-reviewed articles on human rights topics. She is the principal author of the UW Center for Human Rights' reports on detention conditions at the NWDC.

Amici believe that the Court in this matter would benefit from information about La Resistencia's experiences working on the ground with people detained in the NWDC, including people who participated in the Voluntary Work Program (VWP) or otherwise performed labor for the GEO Group while detained in the facility. The Fair Work Center also has a special interest in cases like this where

the rights of vulnerable populations, such as low-wage, unemployed, and immigrant workers, are at stake. Prof. Godoy is an expert in the obtaining and analyzing of government documents for ascertaining human rights violations and is particularly versed in the challenges of using institutional documentation to corroborate victim complaints. Specifically, she has reviewed thousands of pages from the NWDC of complaints from people detained, GEO Group and U.S. Immigration and Customs Enforcement (ICE) responses, and audit reports obtained through FOIA. Amici respectfully submit that such experience and interest helps elucidate the abusive environment in which detained people were forced to perform labor for the GEO Group, accepting meager wages in an effort to provide themselves with adequate food, hygiene items, and other necessities to support their wellbeing. As the accounts below illustrate, abusive conditions existed during operation of the VWP and continue to exist after its cancellation.¹

SUMMARY OF ARGUMENT

The GEO Group, Inc. (GEO Group), a private for-profit prison company that operates the NWDC, has raked in enormous profits by exploiting the labor of

¹ All parties have consented in writing to the filing of this amicus brief. The brief was not written in any part by counsel for the parties, and no person, other than *amicus*, and its members or counsel, has made a monetary contribution to the preparation or submission of this brief.

people confined in its facility. GEO Group’s business model depends on forced labor and cutting corners on basic services. GEO Group offers a dollar a day for work essential to the company’s own operations. People detained² were forced to trade their labor for wages under conditions created and controlled by GEO Group—conditions that are sometimes dangerous or deleterious to health and that are designed to benefit GEO Group and maximize its profits. At the same time, the company fails to provide people detained with enough food to eat, enough soap to keep clean and healthy, and with reasonable ways to communicate with their loved ones in the outside world. Workers are thus coerced into labor to maintain their own humanity and dignity and to avoid retaliation by GEO Group, which utilizes solitary confinement to chill protest over abusive labor conditions.

As correctly determined by the District Court below, GEO Group therefore employed the people held at the NWDC and owed them the protections of the Washington State Minimum Wage Act (WMWA). GEO Group now urges this Court to overturn this result, based, in part, on an incorrect understanding of the relationship between employers and employees. Even under GEO Group’s

² In this brief, we use the term “people detained” to refer to all people held within the NWDC who are affected by abusive conditions, including those people who were workers in the Voluntary Work Program and those who were not. We use the term “workers” to refer to people detained in the facility who worked in the VWP or otherwise provided their labor to GEO Group.

misunderstanding of the law, the economic transactions between workers in the NWDC and GEO Group unequivocally establish an employer-employee relationship. The fact that workers are held against their will in GEO Group's custody does not mean they are not employees; GEO Group's attempts to argue otherwise are nothing but a thinly veiled defense of modern-day slavery. This Court should deny GEO Group's request for relief.

ARGUMENT

I. Even under GEO Group's incorrect statement of the law, detained workers are its employees.

GEO Group claims that workers, providing labor essential to the operation of the NWDC, are not its employees.³ As Appellees ably explain, GEO Group mistakenly relies on *Hale* and *Morgan* to determine whether detained workers are GEO Group's employees.⁴

But even if GEO Group's interpretation of the law were correct, the relationship between GEO Group and its detained workforce is indisputably an employer-employee relationship. Ignoring the fact that the Washington Minimum

³ See Appellant's Opening Br. (Appellant's Br.) at 20-30.

⁴ See State of Washington's Answering Br. (Washington Br.) at 17-25; *see also* Pl.'s-Appellees Ugochukwo Goodluck Nwauzor and Fernando Aguirre-Urbina's Answering Br. at 20-34.

Wage Act provides unique definitions and exemptions, GEO Group urges this Court to analyze its use of detained persons' labor under a Fair Labor Standards Act (FLSA) test from nearly three decades ago, developed in the context of prison labor.⁵ Both the *Hale* and *Morgan* cases apply the familiar FLSA "economic realities" test to determine whether one person or entity employs a particular worker or group of workers.⁶ As this Court has held, under this test, determining whether an employer-employee relationship exists requires an analysis of the whole activity, not the mechanical review of specific factors.⁷ In *Morgan*, this Court analyzed the economic reality of the relationship between a Nevada state prison and a prisoner compelled to provide labor at a subminimum wage rate.⁸ Some of the considerations in *Morgan* are not germane to this matter.⁹ However, this Court did consider whether the prison and prisoner "contract[ed] with one another for mutual economic gain".¹⁰

⁵ Appellant's Br. at 23-24 (citing *Hale v. Arizona*, 993 F.2d 1387 (9th Cir. 1993) and *Morgan v. MacDonald*, 41 F.3d 1291 (9th Cir. 1994)).

⁶ See *Morgan*, 41 F.3d at 1292 (citing *Hale*, 993 F.2d at 1391).

⁷ *Bonnette v. Cal. Health & Welfare Agency*, 704 F.2d 1465, 1469 (9th Cir. 1983); see also *Becerra Becerra v. Expert Janitorial, LLC*, 181 Wn.2d 186, 198, 332 P.3d 415, 421 (2014).

⁸ *Morgan*, 41 F.3d at 1292-93.

⁹ *Id.* at 1293 (noting that prison labor was required by law); see *Hale*, 993 F.2d at 1395 (finding the economic reality of the relationship between a prisoner and prison taking his labor was "penological, not pecuniary" and therefore did not create an employer-employee relationship under the FLSA).

¹⁰ *Morgan*, 41 F.3d at 1293.

Here, workers detained at the NWDC and GEO Group received economic advantage from the work program, despite its coercive and inhumane conditions. Workers detained in the facility relied upon the wages received, as low as they were, to pay for food, sanitary items, and telephone calls. This fact became evident after the GEO Group terminated the work program in late October 2021, which caused the workers' poor living conditions to deteriorate further. GEO Group, for its part, enjoyed substantial financial advantage—in the millions of dollars saved—from systematically underpaying workers for their labor.

II. Workers detained in the NWDC needed the paltry sums paid by GEO Group to survive in inhumane conditions.

At trial, multiple workers formerly detained testified about the critical role that the one dollar per day payments from GEO Group played in their lives at the NWDC. Further, when GEO Group ended the work program rather than pay the minimum wage, the effect on all people detained was extreme. The impact of GEO Group's subminimum wages on people living in detention cannot be overstated.

i. Conditions during the Work Program

For most of its operation, the NWDC has had a “Voluntary Work Program” (VWP) where detained workers exchange hours of their labor for one dollar per day. The VWP existed in the context of truly deplorable conditions at the facility, as well documented at trial and in publicly available sources. The University of

Washington Center for Human Rights reviewed thousands of pages of grievances filed by people detained at the NWDC between 2012 and 2018; the Center’s analysis revealed GEO Group’s systematic failure to provide people detained with an adequate amount of sanitary, nutritious food.¹¹ People detained in the facility repeatedly reported being served uncooked or spoiled food, including food infested with worms.¹² In 2015, one individual reported being served raw hotdogs and another individual complained that GEO Group regularly served “food that is in a state of decomposition.”¹³ Individuals also lodged numerous complaints over the years regarding the insufficient quantity of food, with one person writing in 2016: “I just ate dinner and I am still hungry. The rice and beans are not enough. If keeping me hungry is a strategy to make me give up my right to see an immigration judge or deport me forever... if not, give me enough rice and beans in my diet.”¹⁴ At trial, Jose Medina-Lara, a person formerly detained at the NWDC, testified that “[s]ometimes the food is so bad I wouldn’t feed it to my dog.”¹⁵ John Patrick Griffin, a former food service supervisor at the NWDC, testified at trial that

¹¹ University of Washington Center for Human Rights, Conditions at the NWDC: Sanitation of Food & Laundry (March 27, 2020), <https://jsis.washington.edu/humanrights/2020/03/27/nwdc-sanitation-of-food-laundry/>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at fn. 3.

¹⁵ Verbatim Tr. of Proceedings (Tr.), October 14, 2021, at 63, Appendix 1.

GEO Group budgeted less than one dollar per meal.¹⁶ Cutting costs on meals for detained people led GEO Group to order “substandard quality food in cans” that were “sometimes [] mixed with spiders or grasshoppers.”¹⁷

GEO Group dismissed detained individuals’ concerns regarding inadequate food, either by claiming that the complaints filed were “not a grievance”, instructing the person to contact ICE instead, or sending back boilerplate language regarding the facility menu and caloric intake requirements.¹⁸ When the Department of Homeland Security, Office of the Inspector General (DHS OIG) inspected the NWDC unannounced in 2019, the watchdog agency confirmed that people detained at the NWDC experience difficulties resolving issues through the grievance and communication systems, in violation of ICE detention standards.¹⁹ Specifically, GEO Group staff did not consistently log grievances submitted via paper and did not meet prescribed deadlines to provide responses to grievances or other communications.²⁰ DHS OIG noted that such failures by GEO Group “risk ignoring or worsening serious deficiencies.”²¹

¹⁶ *Id.* at 153.

¹⁷ *Id.* at 153-54.

¹⁸ Conditions at the NWDC: Sanitation of Food & Laundry, *supra* note 11.

¹⁹ DHS Office of the Inspector General, OIG-20-45, Capping Report: Observations of Unannounced Inspections of ICE Facilities in 2019 (July 1, 2020), <https://www.oig.dhs.gov/sites/default/files/assets/2020-07/OIG-20-45-Jul20.pdf>.

²⁰ *Id.*

²¹ *Id.*

Left without any recourse through the administrative grievance process, people detained at the facility went on hunger strike on numerous occasions to protest the substandard food, among other concerns. In 2016, one individual filed a grievance with GEO Group stating: “I am officially refusing to eat until your kitchen staff start treating me as a human being and not some kind of caged animal [deserving] of partially cooked and uncooked meals”; in reply, the GEO Group said that this was “not a grievance.”²² Instead of correcting deficiencies related to nutrition and living conditions, GEO Group has frequently retaliated against hunger strikers by placing them in solitary confinement.²³ In March 2014, four individuals were confined in disciplinary segregation between 16 and 25 days for “inciting others in group demonstration” or “inciting others to conduct work stoppage and strike.”²⁴ One striking worker who was placed in solitary confinement reported to La Resistencia that they had wanted to organize a 72-hour stoppage of all VWP work to demand increased pay, lower commissary prices, and higher quality meals, among other concerns.

As a result of GEO Group’s failure to provide adequate nutrition, individuals

²² Conditions at the NWDC: Sanitation of Food & Laundry, *supra* note 11.

²³ University of Washington Center for Human Rights, Conditions at the NWDC: Solitary Confinement (Nov. 30, 2020), <https://jsis.washington.edu/humanrights/2020/11/30/nwdc-solitary/>.

²⁴ *Id.*

are consistently forced to supplement their diets with food purchases from the detention facility commissary,²⁵ often at steep prices.²⁶ Indeed, workers testified at trial that they worked in order to purchase additional food to stave off hunger. For example, Maria Gomez Sotelo, a worker formerly detained, testified that she worked to be able to afford additional food because the food provided by GEO Group “was very scarce....”²⁷ Another worker formerly detained, Orlando Zavalza Marquez, testified that he returned to work in the kitchen at the NWDC for one dollar per day “[b]ecause I ran out of money, I was hungry, and I needed some more food.”²⁸

Sanitation and cleaning practices within the NWDC are similarly deficient, leading people detained in the facility to suffer additional financial stress as they attempt to provide themselves with adequate hygiene supplies. During the pandemic, individuals detained in the NWDC reported that hand soap is not promptly restocked, forcing people to either purchase soap from the commissary or

²⁵ Conditions at the NWDC: Sanitation of Food & Laundry, *supra* note 11 at fn. 3.

²⁶ Tr., October 19, 2021, at 78, Appendix 4 (Maria Gomez Sotelo, a worker formerly detained, testified that the food was “very expensive.”).

²⁷ *Id.*

²⁸ Tr., October 18, 2021, at 73, Appendix 3; *see id.* at 78 (Mr. Marquez would not have worked if he had adequate food).

go without.²⁹ Grievances about soiled laundry remain consistent over the years, including frequent reports of being issued filthy undergarments: “Why are we not issued brand new panties? I keep requesting panties and they keep bringing old yellow stained disgusting panties...that is very unsanitary.”³⁰ Maria Gomez Sotelo testified at trial that she worked in order to buy “soap, shampoo, bras, panties, any type of personal items that you would need” in part because she was allergic to the soap that the NWDC supplied.³¹

And people detained are largely unable to communicate with the outside world without extra funds. For example, Jose Medina-Lara testified at trial that he worked for GEO Group’s incredibly low wages so he could help others pay for phone calls to their loved ones.³² Indeed, Mr. Medina-Lara testified that a single phone call could cost as much as four dollars, translating to four days’ work for GEO Group.³³

²⁹ University of Washington Center for Human Rights, Conditions at the NWDC: COVID-19 and Health Standards (Dec. 16, 2020), <https://jsis.washington.edu/humanrights/2020/12/16/nwdc-covid/>.

³⁰ Conditions at the NWDC: Sanitation of Food & Laundry, *supra* note 11.

³¹ Tr., October 19, 2021, at 78.

³² Tr., October 14, 2021, at 63; *see* Tr., October 18, 2021, at 64 (formerly detained worker Orlando Zavalza Marquez testified that he worked so he could pay to call his family); *see also* Tr., October 19, 2021, at 72 (formerly detained worker Maria Gomez Sotelo testified that she kept in contact with her children by “very expensive” phone calls).

³³ Tr., October 14, 2021, at 64-65.

In desperate need of extra funds to purchase basic necessities, workers performed dangerous sanitation jobs within the facility that exposed them to toxic chemicals without adequate personal protective equipment (PPE). Workers reported sickness—including rashes and respiratory irritation—from being exposed to disinfectants while working but felt they had no choice but to work in such conditions.³⁴ One woman reported to La Resistencia: “Right now I have a rash because I work with chemicals here a lot. I’m a bathroom cleaner. On my medical records it shows that I’m allergic to chlorine and I smell that in the chemicals. Myself, I need a job here so I can’t shy away from working with the chemicals.”³⁵ GEO Group provided all people detained with disposable, single-use masks, but required them to reuse the masks for multiple days.³⁶ And workers were not provided with adequate ventilation when using the abrasive disinfectants.³⁷

Following multiple complaints by people detained at the NWDC, the Environmental Protection Agency (EPA) issued GEO Group a Notice of Warning that the facility had violated federal law by using pesticides in a manner

³⁴ Conditions at the NWDC: COVID-19 and Health Standards, *supra* note 29.

³⁵ La Resistencia, Instagram, <https://www.instagram.com/tv/CCWoZpmpbv8/?igshid=k43lgv6zopop> (last visited May 26, 2022).

³⁶ Conditions at the NWDC: COVID-19 and Health Standards, *supra* note 29.

³⁷ *Id.*

inconsistent with their labeling.³⁸ In the fall of 2020, EPA inspectors reviewed sanitation practices at the NWDC and concluded that GEO Group “routinely employs detainees in a ‘Voluntary Facility Activities Program’ to assist in the daily cleaning and sanitation of each housing unit (pod). Records obtained by EPA of daily sanitation unit reports indicate that up to 48 separate pesticide applications could occur in each housing unit on a given day.”³⁹ The EPA noted that workers were not supplied with required PPE and were not given adequate access to clean clothing, resulting in the workers’ clothes remaining contaminated with pesticides.⁴⁰ Furthermore, despite product labels that clearly state “Do not breathe spray,” the EPA noted that workers “complained of sore throats and headaches in connection with applications of these pesticide products, indicating detainees may be inhaling the products being applied.”⁴¹ At trial, Bruce Scott, Facility Administrator for the NWDC and corporate representative for GEO Group, testified that GEO Group did indeed receive this citation from the EPA.⁴²

³⁸ Letter from U.S. EPA Region 10 to Bruce Scott, Asst. Facility Administrator, FIFRA Notice of Warning of Non-compliance with the Federal Insecticide, Fungicide and Rodenticide Act (July 6, 2021), Appendix 5.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Tr., October 18, 2021, at 27-30.

ii. Worsened conditions after suspension of the Work Program

On October 29, 2021, after the entry of judgment in this case, GEO Group canceled the VWP at the NWDC.⁴³ Following GEO Group's suspension of the VWP, conditions within the facility declined drastically.⁴⁴ As one person detained told the press, "[i]t got really gross — nobody cleaned anything... The guards were saying it wasn't their job to clean the toilets."⁴⁵ The floors and bathrooms in one unit quickly became so grimy that Jose Soares, a former worker in the VWP, sought and received permission from GEO Group to clean them for free—a job that took him four hours to complete.⁴⁶ The abrupt absence of detained workers impacted kitchen operations within the facility as well. Two individuals at NWDC reported to the press that they noticed more guards than usual working in the kitchen to prepare food.⁴⁷ Around this time, La Resistencia began receiving reports from people in detention that their food rations had been reduced compared to

⁴³ Memorandum from GEO Group to All Detainees, Voluntary Work Program Suspension (Oct. 29, 2021), Appendix 6.

⁴⁴ See, e.g., Gene Johnson, *GEO Group Halts Work Program at Tacoma Jail Instead of Upping Detainee Pay*, KNKX Public Radio, November 5, 2021, <https://www.knkx.org/law/2021-11-05/geo-group-halts-work-program-at-tacoma-jail-instead-of-upping-detainee-pay>.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

when the VWP was in operation.⁴⁸ Indeed, La Resistencia has received numerous complaints from people detained that they do not have enough food to eat and frequently go hungry. To make matters worse, after the VWP's suspension, commissary prices increased.⁴⁹

Despite its no-work policy for people detained, GEO Group continued to encourage people detained to perform labor in exchange for additional food. At trial, Bertha Henderson, the food services administrator at the NWDC, testified that GEO Group would award a chicken as a prize to the workers in the cleanest housing unit.⁵⁰ Until at least December 6, 2021, GEO Group continued its chicken competition—which workers referred to as the “Hunger Games”—in which GEO Group awarded a rotisserie chicken to the two cleanest units each week.⁵¹ Other units with lower scores in the cleaning competition could receive either popcorn or

⁴⁸ *See also*, Interview with Israel Arrascue, May 17, 2022, on file with counsel (“Mostly we received less food after the work program stopped, and not properly cooked.”); Interview with Domingo Soto, May 13, 2022, on file with counsel (“We are complaining about the food portions, which are very small.”).

⁴⁹ Interview with Israel Arrascue, *supra* note 48.

⁵⁰ Tr., October 15, 2021, at 12, Appendix 2.

⁵¹ Memorandum from S. Delony, Fire and Safety Manager, to All Detainees, Sanitation Inspection Results Week of 12/6/2021 (Dec. 9, 2021), Appendix 8; *see* Tr., October 15, 2021, at 12-13 (Bertha Henderson, Food Service Administrator at the NWDC, testified that workers with the cleanest areas were rewarded with a chicken).

kettle corn.⁵² Individuals reported to La Resistencia that to receive a high score, and thus additional food, workers had to clean the units, including the floors and bathrooms, three times per day. According to workers, GEO Group officers do not want to do the work previously performed by workers in the VWP. Instead, workers reported feeling forced to labor without pay in exchange for the chance to receive one meal, performing jobs—such as cleaning floors—that official GEO Group policy expressly forbids.⁵³ Domingo Soto, a person currently detained in the NWDC and a former VWP worker, reported to La Resistencia that: “They forced us to work for nothing. I witnessed fights because there were people who didn’t want to do it. ... One month I remember one of the officers accused me in front of everyone that it was my fault that my pod lost the chicken. That caused problems for me.”⁵⁴ Following complaints from La Resistencia and people in detention, GEO Group issued a memorandum on December 13, 2021, notifying all people detained that they are not permitted to do any work previously done under the program, “including, but not limited to, work in the kitchen, the laundry areas, cutting hair, painting, waxing, or scrubbing floors, or cleaning the secure areas of

⁵² Memorandum from S. Delony, Fire and Safety Manager, to All Detainees, *supra* note 51.

⁵³ See Memorandum from GEO Group to All Detainees, *supra* note 43.

⁵⁴ Interview with Domingo Soto, *supra* note 48.

the facility.”⁵⁵

At trial, Facility Administrator Scott agreed that, if people in detention did not participate in the VWP, GEO Group employees would have to fill in for their critical work, perhaps incurring overtime.⁵⁶ Mr. Scott also testified that if people detained did not provide their labor to GEO Group, GEO Group would have to bring in additional workers, including potentially third-party staffing agencies to allow the facility to function.⁵⁷ Mr. Scott’s predictions were correct. After suspension of the VWP, GEO Group asked its officers to clean the toilets and showers until it hired a janitorial contractor.⁵⁸ However, according to detained individuals in contact with La Resistencia, this cleaning contractor merely did a superficial dusting rather than a regular deep cleaning of the showers, bathrooms, and common areas. Moreover, the contractor cleaned the facility only once per day, whereas detained workers cleaned the facility three times per day during the VWP.⁵⁹

To avoid living in squalor, people confined within the NWDC are forced to

⁵⁵ Memorandum from GEO Group to All Detainees, VWP Suspension (Dec. 13, 2021), Appendix 7.

⁵⁶ Tr., October 19, 2021, at 44-45.

⁵⁷ *Id.* at 45-46.

⁵⁸ Letter from Dept. of Labor & Industries, Division of Occupational Safety & Health to Maru Mora Villalpando, February 14, 2022, Appendix 9.

⁵⁹ Interview with Israel Arrascue, *supra* note 48.

clean their living areas as best they can without the benefit of their former wages. Israel Arrascue, a person formerly detained in the NWDC and a former VWP worker, reported that GEO Group eventually gave detained workers access to the cleaning chemicals again: “We had to ask GEO for permission to clean the sinks, bathrooms, and showers and GEO officers gave us the chemical spray so that we could clean without pay. We had to work again and do their job again without pay. It was the worst situation we had to live in at that time.”⁶⁰ Mr. Soto reported to La Resistencia that detained workers regularly clean the tablets and tables in his housing unit with chemical disinfectants that they retrieve from the cleaning supply closet.⁶¹

A recent inspection by the state Department of Labor and Industries confirms detained workers’ accounts of their unpaid labor. The Department’s February 2022 inspection report states that both GEO officers and people in detention use cleaning chemicals—the same chemical pesticides that the EPA found GEO Group had mishandled a few months prior.⁶² Mr. Soto reported to La Resistencia that GEO Group continues to ignore complaints regarding conditions: “I have messages that I sent to the facility saying that they need to do a better job.

⁶⁰ *Id.*

⁶¹ Interview with Domingo Soto, *supra* note 48.

⁶² Letter from Dept. of Labor & Industries, Division of Occupational Safety & Health, *supra* note 58.

If I talk to ICE, ICE tells me to talk to GEO. If I talk to GEO, GEO says it's somebody else. They are pointing fingers at each other and nobody wants to take responsibility for their actions.”⁶³

Meanwhile, Mr. Soto and others struggle with the loss of their former wages: “It's more difficult now in every way. We continue on without any other form of help to communicate with our families or our attorneys. ... People here depended on that money. I relied on that dollar. We have a lot of things to pay for... The most necessary being hygiene [items] and phone calls.”⁶⁴

Despite the best efforts of people detained to improve their living conditions with the meager resources available to them, squalid conditions at the NWDC persist. On May 13, 2022, thirteen individuals went on hunger strike to protest the poor conditions inside the facility, including for improved food (“the food given to us is terrible, all incredibly salty, with hard rice and beans”), for reduced commissary prices, and for “cleaning to be done in a proper way, not like the dirty ways we see now.”⁶⁵ Those on strike also demanded that GEO Group reinstate

⁶³ Interview with Domingo Soto, *supra* note 48.

⁶⁴ *Id.*

⁶⁵ La Resistencia, *Hunger Strike Starts at Tacoma Northwest Detention Center Amid Demands for Improved Conditions*, Liberation News, May 13, 2022, <https://www.liberationnews.org/hunger-strike-starts-at-northwest-detention-center-amid-demands-for-improved-conditions/>.

paid labor at just wages.⁶⁶ GEO Group retaliated by placing four of the strikers in solitary confinement.⁶⁷

Even following these most recent hunger strikes, people detained reported to La Resistencia that the facility continues to serve badly prepared rations that have caused illness. Mr. Arrascue's health deteriorated significantly while he was detained at the NWDC, in part because of poor nutrition: "I did not have health problems before I was detained. I became overweight and was diagnosed with pre-diabetes and thyroid issues. I was supposed to receive the 'diet for health' food tray. But I could only eat half a tray because it had too many carbohydrates. No one deserves that kind of treatment."⁶⁸

Ultimately, workers needed the paltry wages paid by GEO Group in order to meet their basic human needs while confined in the NWDC. They agreed to trade their labor for subminimum wages in order to have enough food, to communicate with the outside world, and to provide for basic sanitary needs while they were held against their will. Clearly, workers contracted with GEO Group for economic gain.

⁶⁶ Maria Ines Taracena, *Detained Immigrants in Washington Face Retaliation for Hunger Strike*, Prism, May 19, 2022, <https://prismreports.org/2022/05/19/detained-immigrants-washington-retaliation-hunger-strike/>.

⁶⁷ *Id.*

⁶⁸ Interview with Israel Arrascue, *supra* note 48.

III. GEO Group relied on the labor of detained workers to operate the NWDC.

Just as clearly, GEO Group needed the labor of detained workers. GEO Group runs a highly profitable business warehousing people in its detention facility. Ryan Kimble, Associate Warden for Finance and Administration for the NWDC, testified that GEO Group profited by between \$18 million and \$20 million per year by operating the NWDC.⁶⁹ Mr. Kimble also testified that these profits were dependent, in part, on how much low-cost labor GEO Group could extract from people confined in the facility. He acknowledged that paying GEO Group officers and other staff to do the work performed by detained workers would reduce profit.⁷⁰

There can be no serious debate on this point: GEO Group's own analysis of its operations showed that the loss of drastically undercompensated labor from detained workers would cost GEO Group millions of dollars. Brian Evans, GEO Group's Chief Financial Officer, testified that GEO Group's calculations suggested it would have to pay detained workers between three and four million dollars per year if they paid Washington State minimum wage, or that they would have to hire approximately 85 additional (non-detained) employees to cover the work

⁶⁹ Tr., October 18, 2021, at 138-139.

⁷⁰ *Id.*

performed by the people detained.⁷¹

When asked at trial if the NWDC kitchen could operate without detained workers, a former food service supervisor at the facility answered, “If you don’t have detainees there, you really struggle getting it done. So you end up working longer hours to get it done.”⁷² The food service supervisor added that, if there were no detained workers in the kitchen, it would be impossible for the GEO Group cooks to run the food service line by themselves.⁷³ GEO Group similarly relied upon its captive workforce to perform essential sanitation jobs. Following suspension of the VWP, GEO Group first hired an outside janitorial contractor before bringing in GEO employees from out of state to clean the facility, incurring additional expenses for employee travel and lodging.⁷⁴

GEO Group’s highly profitable business detaining people was built on the low-cost labor it extracted from those captive workers. There can be no serious question that GEO Group’s contract for the labor of detained workers was for its economic benefit.

⁷¹ Tr., October 19, 2021, at 57-58.

⁷² Tr., October 14, 2021, at 135.

⁷³ *Id.* at 142.

⁷⁴ Interview with Israel Arrascue, *supra* note 48 (“The GEO officer explained to me that sometimes when GEO needs more people they bring GEO workers from other states, in this case Texas, and pay for hotels for them.”).

IV. GEO Group's predatory business practices disproportionately harm communities of color.

Private, for-profit prison companies like GEO Group make their money through economically exploiting the people confined within their walls.⁷⁵ Since for-profit prisons disproportionately confine people of color,⁷⁶ GEO Group is systematically extracting wealth and resources from communities already disproportionately burdened by over-policing and mass incarceration.

To maximize its profits, GEO Group employs tactics common throughout the private prison industry.⁷⁷ GEO Group cuts down on operational costs by slashing essential services—like food and laundry service—while utilizing people detained for maintenance jobs and other work critical to the operation of the facility. GEO Group then forces people detained to buy exorbitantly priced products and services sold within the facility, thereby reaping unjust rewards for

⁷⁵ Private correctional facilities utilize the same model as private immigration detention facilities. *The Prison Industry: How it started. How it works. How it harms*, Worth Rises, April 30, 2021, at 14, <https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/621682209bb0457a2d6d5cfa/1645642294912/The+Prison+Industry+How+It+Started+How+It+Works+and+How+It+Harms+December+2020.pdf>.

⁷⁶ Rina Palta, *Why For-profit Prisons House More Inmates of Color*, NPR Code Switch, March 13, 2014, <https://www.npr.org/sections/codeswitch/2014/03/13/289000532/why-for-profit-prisons-house-more-inmates-of-color>.

⁷⁷ Worth Rises, *supra* note 75 (explaining how the prison industry—and privatized services within detention facilities—extract financial resources from people detained and their families).

providing substandard services. In 2016, prison commissaries brought in \$1.6 billion from overcharging people detained and their families for basic necessities like food, toothpaste, and clothing.⁷⁸

The harms from GEO Group’s predatory business practices spill beyond the detention facility walls, where families of people detained struggle to make ends meet while supporting their loved ones inside. Research shows that one in three families with a loved one in detention goes into debt trying to pay for phone calls and visits alone—and the costs of these astronomically high phone call rates are largely borne by women of color.⁷⁹

GEO Group’s decision to pay detained workers a mere dollar for hours of strenuous work (or failing to pay them at all) is thus another method of extracting value from poor communities of color. The prison industry’s appetite for cheap, forced labor traces back to the abolition of slavery, when prisons retained control over the labor of Black people through such abhorrent practices as “convict leasing” and chain gangs.⁸⁰

Abusive conditions within the NWDC are thus not the result of mismanagement or lack of adequate oversight. On the contrary, these inhumane

⁷⁸ *Id.* at 67.

⁷⁹ *Id.* at 54.

⁸⁰ *Id.* at 23-24.

circumstances necessarily flow from GEO Group's predatory business practices. To protect people from such dangerous, unsanitary conditions, Washington State decided in 2021 to end the use of for-profit detention in the state.⁸¹ Recognizing that the labor of people detained is deserving of, and entitled to, fair wages will help to ameliorate the legacy of oppression that the for-profit prison industry has exacted on communities of color.

CONCLUSION

GEO Group is running a highly lucrative business at the NWDC. The operations and profitability of that business depend on exploiting the labor of detained workers who provide essential services to the facility. And, given the harsh conditions at the NWDC, the pittance paid to workers by GEO Group was critical for their well-being. As a result, and notwithstanding GEO Group's misunderstanding of the applicable law, the relationship between GEO Group and the workers in detention is an employer-employee relationship.

This Court should rule against GEO Group on appeal.

⁸¹ Wash. Rev. Code § 70.395. Under the new law, existing for-profit detention facilities are allowed to continue operating until the expiration of their contract. Wash. Rev. Code § 70.395.030(2).

Respectfully submitted,

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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Nos. 21-36024 & 36025

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UGOCHUKWO GOODLUCK NWAUZOR, FERNANDO AGUIRRE-URBINA,
individually and on behalf of those similarly situated,
Plaintiffs-Appellees,

and

STATE OF WASHINGTON,
Plaintiff-Appellee,

v.

GEO GROUP, INC.,
Defendant-Appellant,

On Appeal from the United States District Court for the
Western District of Washington
Civil Case Nos. 3:17-cv-05769 & 3:17-cv-05806
(Honorable Robert J. Bryan)

**APPENDIX TO BRIEF OF LA RESISTENCIA, FAIR WORK CENTER,
AND PROF. ANGELINA SNODGRASS GODOY
AS AMICI CURIAE IN SUPPORT OF APPELLEE**

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APPENDIX 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UGOCHUKWO GOODLUCK NWAUZOR,
et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

3:17-cv-05769-RJB

3:17-cv-05806-RJB

Tacoma, Washington

October 14, 2021

Jury Trial

9:00 a.m.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT JUDGE

Proceedings stenographically reported and transcribed
With computer-aided technology

1 point did you learn about the voluntary work program?

2 A Oh, yes, right away, because my thing -- I want to ask
3 questions. I learn things. I am very inquisitive. I want
4 to know how things function, what activities, law library,
5 yard, stuff that keeps you busy and motivated and thinking
6 about something positive, instead of a negative case that you
7 are in.

8 So, yes, I got there. I started making friends. They
9 told me right away, you can sign up and you'll be able to get
10 a job. You get a dollar a day. You get paid this much. So
11 I did it, you know. Gets me motivated.

12 Q So tell me, you signed up to work. Why did you sign up to
13 work?

14 A Okay. I did it for two reasons. One, because I can't
15 just sit there and just be idle. Two, because I figure me
16 doing something productive will help me once I get out of
17 there, in my own country that I don't know, or here in the
18 U.S., so it would teach me responsibility and the fact I have
19 to show up for a job, if you will, you know. That's why I
20 did it. Plus, it is a dollar a day. I'd rather make a
21 dollar than no dollars. So that's why I did it.

22 Q While you were in there, you couldn't go out and get a job
23 outside the facility; is that right?

24 A Oh, no. No. I wish.

25 Q Did you have anybody sending you money while you were

1 inside?

2 A Yes. I did. I -- my family, they sent me what they
3 could. I would get roughly about \$100 a month, honestly.
4 Sometimes the food is okay. Sometimes the food is so bad I
5 wouldn't feed it to my dog. I love animals, and I wouldn't
6 feed it to them. And my family was like, "Are you okay?" I
7 didn't want to be a burden to them. I figured, you know,
8 it's actually \$30 a month, it can go for something, you know,
9 hygiene, or food, or whatever, you know. That's what I did.

10 Q Yeah. I think that is a good question. I mean, tell us
11 more about why you needed the money or what you used it for.

12 A You know what, Jamal, I used it because I didn't want to
13 be a burden on my family. And not just that, there was
14 people that was searching, they didn't have nobody, no
15 family, they didn't have anybody. I would help people out,
16 whether it was a cup of soup, maybe a bar of soap. Any
17 reason to help, I would help people. Because there is people
18 that didn't have anybody, you know.

19 Any way I could help them, to buy phone time, a phone
20 call, see the joy in their eyes when they hadn't spoken to
21 their wife in a week, two weeks, or three weeks. The only
22 way to make the phone calls, I used the time to buy phone
23 time, and I was able to give them a phone call. You would
24 see joy in their eyes, how grateful they were to speak to
25 their wife. El Salvador, you know, Africa, I was willing to

1 help anybody that needed help.

2 Q You said something about buying a phone card. What are
3 you getting with that?

4 A What you have to do is you have to purchase phone time.
5 You would have -- the money you would get would go to an
6 account. You would purchase phone time through the computer.
7 You would purchase, like, minutes, if you will. You were
8 able to use the phone. You couldn't make phone calls. You
9 have to pay for the phone calls. Most of the \$30, I got from
10 working there went towards either me making phone calls to
11 call my wife or my family, or to allow another person to say
12 hi to their family for four or five minutes.

13 Q How much did those phone calls cost?

14 A It is expensive. If you got money, that's fine. Most of
15 those people in there, less fortunate. They don't have a
16 lot, you know. Three or \$4 a phone call. It gets expensive.

17 Q Three, \$4 a phone call, that could be three, four days
18 worth of work just to make that one call?

19 A Exactly. Exactly. If I make a call, a call in ten days,
20 that's the 30 days of work in ten days, you know.

21 Q As I understand, they provided food at the detention
22 center. You mentioned buying food. Tell us more about --

23 A Yeah.

24 Q -- buying food.

25 A Not enough to feed your nutritional requirements per day.

1 I am not going to lie. It wasn't completely bad. There were
2 some days you would look at it and, oh, man, I would bet
3 people, you know, \$20, you eat that, you know. They would
4 pay me \$20 not to eat it, you know. There were some days it
5 was just bad. You know, with the soup, or we would cook
6 stuff, they had microwaves. People, they had nobody to send
7 them money, you know, so the \$30 went a long way. A long
8 way.

9 Q We have talked about you signing up. I want to talk more
10 about the specifics of the worker program and what you did in
11 it. Tell me this: Did you sign up or were you able to work
12 right away, or was there a wait?

13 A I -- the first I got there, I signed up. What they have,
14 it is a waiting list. You get there, sign up, first come,
15 first served. The way it worked is someone moved units, or
16 they get released, they get deported, then a job becomes
17 available. They have a list of jobs, depending on what pod
18 you are in, and what jobs are available. Because some pods
19 are smaller, and some are bigger. They have a list of jobs.
20 Oh, you know what, you are next. There is this job open, do
21 you want to take it? There are some people who are okay with
22 doing any job, and some people are not. Once a job opening
23 came, lucky for me, it was a good job. I took it. Within
24 five days, they hired me.

25 Q What sorts of jobs were available?

1 A They had the regular, they call it a porter, pod cleaner.
2 They have shifts where you just sweep and mop the tiers.
3 They had shower cleaners. They have where you hand out the
4 food. One to clean the rec yard. Twenty people per shift.
5 Q Okay. So of the jobs that were available, were there any
6 jobs you just said: No way, you can't pay me enough?
7 A Oh, man, the shower. Oh, no. No. No. No. I am a very
8 hard worker. I am a very hard worker. But there is no way I
9 am going to clean up soiled underwear or feces in there.
10 That is just no, I'm sorry, I would not do it. Somebody has
11 to do it, but I couldn't do it.
12 Q Changing subjects, but I promise we'll come right back.
13 In your car -- why are you in your car right now? People may
14 be wondering.
15 A I worked 14 hours last night. Devin asked me if I could
16 do this. Devin is a great attorney, an amazing attorney. I
17 also consider him my friend. So I would gladly do anything
18 for him, because he did that for me and my family.
19 Q Back to the work. You signed up on the list, on the
20 waitlist, you got a job. Tell us, what was the job you got?
21 A The first job I got was just sweeping and mopping the
22 tiers. It was at night. So after it was going to be count
23 time, and time for everybody to be in their bunk areas, we
24 would sweep and then mop the tiers. That was my first job I
25 did. It would be one shift.

1 Q I am going to show you Exhibit 445 and ask if you
2 recognize it.

3 A Yes.

4 MS. CHIEN: I would like to offer into evidence
5 Exhibit 445.

6 MR. CALABRESE: No objection.

7 THE COURT: It may be admitted.

8 (Exhibit 445 was admitted.)

9 A So you are looking at the opposite end of the kitchen from
10 the previous picture. And you can see the pots and the soup
11 braziers, and the detainees are cleaning them up.

12 Q This is not in the middle of a meal or a meal shift,
13 right?

14 A Not at all.

15 Q I see a back door to the left. Can you tell me what that
16 is?

17 A That is the walk-in oven.

18 Q That sounds terrible to me. Can you tell me --

19 A It is a really big oven. Well, the speed rack -- for
20 example, if we are cooking bread pudding, and you are making
21 40 hotel pans, which is like a nine by -- or an 8-by-13 pan,
22 you need 40 pans. So you can put trays on the speed rack,
23 put the hotel pans on the speed rack itself, put it in the
24 oven. It gets up on a holder on top, so it is off the
25 ground, and rotates. So then you put the timer on in the

1 oven, close the door.

2 Q Who used the walk-in oven?

3 A Typically, it was the GEO cooks, myself, and sometimes the
4 detainees.

5 Q Who cleaned that walk-in oven?

6 A The detainees.

7 Q Does this photo reflect the typical shift during a meal?

8 A No.

9 Q Can you tell me what the difference is?

10 A I call it organized chaos. When you have, on average,
11 20-plus detainees in the kitchen, and if you had five
12 detainees in the back area, you have five cleaning, that is
13 going on, this seems a little different than when I was
14 there.

15 Q You testified that one GEO cook would supervise this prep
16 area per shift; is that right?

17 A Correct.

18 Q If there were not detainee workers in the prep area, could
19 the single GEO cook do all the food prep work alone to get it
20 all out?

21 A Probably not. We've been in situations like that. And
22 mostly you are doing prep for the next day. So the day of
23 the meal is not always the big concern, it's the next day.
24 If you don't have detainees there, you really struggle
25 getting it done. So you end up working longer hours to get

1 it done.

2 Q I would like to return to the serving area. You testified
3 the detainee workers work in a serving area?

4 A Correct.

5 Q Who supervised the detainee workers when they worked in
6 the serving area?

7 A The GEO cook, or myself.

8 Q I would like to show you Exhibit 430 and ask if you
9 recognize it.

10 A Yes.

11 MS. CHIEN: I would like to offer into evidence
12 Exhibit 430.

13 MR. NEGRON: No objection.

14 THE COURT: It will be admitted.

15 (Exhibit 430 was admitted.)

16 BY MS. CHIEN:

17 Q Can you tell me what that is?

18 A The two refrigerated containers closest to the picture,
19 the one behind with the three wells each, that is what you
20 put hot food into. In the middle is where the trays come
21 through. And there is a person standing on each part of the
22 line serving the food, dishing it up. You have specific,
23 four-ounce scoops. Everything was very tight. You had to
24 watch. You had to stand there and watch the whole process,
25 making sure the detainees are following your command on

1 Q I would like to show you Exhibit 45. This is several
2 photos. I will ask you to scroll down a little bit. Do you
3 recognize these photos?

4 A Yes.

5 Q What is it?

6 A The line being served. All the detainees are in place.
7 You see the GEO officer standing right there watching the
8 line, making sure the proper portions are going on. And then
9 you see the detainee standing next to her. He is the person
10 that would get the food and keep the line going that is in
11 the --

12 Q Let me take a step back. They can't see it yet.

13 A Sorry.

14 MS. CHIEN: I want to offer into evidence Exhibit 49.

15 MR. NEGRON: No objection.

16 THE COURT: Just a minute. This is 45?

17 MS. CHIEN: 49.

18 THE COURT: 49. It may be admitted.

19 (Exhibit 49 was admitted.)

20 Q Let's take it a little bit slower, for all of us who
21 haven't been in the kitchen.

22 Take a look at the first picture. Can you tell me what
23 this is of?

24 A That's the line service. All the detainees in place. You
25 can see they are standing. Each person has a job to put on

1 the trays. As the shock collar explains what the diet is,
2 they follow suit.

3 Q There is a person in a black uniform, is that the GEO
4 officer that's supervising the line?

5 A Yes, that is.

6 Q Looks like there is about ten detainee workers on the
7 line; is that right?

8 A Yes.

9 Q Is that what the serving line typically looked like when
10 you were working in the kitchen?

11 A Yes.

12 Q Now, I would like to scroll down to the fourth picture in
13 this series of photos. Can you tell me what is going on in
14 this photo?

15 A Same thing. Detainees are serving on the line. You have
16 a detainee that is standing next to the officer waiting for
17 instructions on -- to get -- if it is beans, she will say,
18 "Get another bean out of the warmer to put on the line."

19 Q Is that why he's wearing oven mitts?

20 A Yeah.

21 Q He is bringing the big vats over for the serving line?

22 A Yes.

23 Q If there were no detainee workers, could the GEO cook run
24 the line by themselves?

25 A Absolutely not.

1 Q Why is that?

2 A To feed nearly 1,500 detainees, at the time I was there,
3 it would be really challenging. You have a timeline to serve
4 the food. You wouldn't serve it out on time. There is just
5 no way.

6 Q In addition to the prep area and the serving area, you
7 also testified there is a dish-pit area; is that right?

8 A Yes.

9 Q I am going to show you Exhibit 439, and ask if you
10 recognize it.

11 A Yes.

12 Q What is it?

13 A So the dish-pit area, you see where the trays are in the
14 back area --

15 Q I am going to stop you so I can get the jurors to be able
16 to see it too. This is the dish-pit area?

17 A Yes.

18 MS. CHIEN: I offer into evidence Exhibit 439.

19 MR. NEGRON: No objection.

20 THE COURT: It may be admitted.

21 (Exhibit 439 was admitted.)

22 Q Now, can you tell me what is going on in the photo?

23 A You see the trays in the back end, blue trays, those are
24 all the dirty trays coming back from the pod. You see the
25 ones in the sink area, washing all the pots and pans that

1 that right?

2 A Yes.

3 Q Also plastic bags on this detainee workers' foot -- feet;

4 is that right?

5 A Yes.

6 Q Can you tell me why plastic bags are on the detainee
7 workers' feet?

8 A To keep their feet dry. Especially working in the dish
9 pit, a lot of water getting all over the floor.

10 Q How would detainee workers use those bags?

11 A We had, in our storage, rolls of bags. Or the officer at
12 the desk in the dish-pit area or the cook, they would ask for
13 them.

14 Q Would detainee workers put food in those bags?

15 A Yes.

16 Q Can you tell me about that?

17 A Periodically, we would go to the locker and go through
18 their stuff to make sure there is nothing in there, that is
19 during the mealtime or during cleanup. At the end of the
20 meal when we are done serving all the detainees, the
21 detainees in the kitchen had the option to eat food, and eat
22 as much as they want, whatever is on the line. So they would
23 set up some tables in the dish-pit area, come get their food,
24 sit down, eat their food. That's when we have to pay
25 attention, because they will take their leftovers, put them

1 in the bags, put it in their lookers. And then at the very
2 end of the shift we have to do a pat-down, and we would find
3 the food.

4 Q Why would detainee workers be taking food off the line or
5 from the extra food?

6 MR. NEGRON: Objection, calls for speculation.

7 THE COURT: I think he may answer.

8 THE WITNESS: Out of the detainees' mouth, I have
9 heard them say they don't --

10 MR. NEGRON: Objection, hearsay.

11 THE COURT: Sustained.

12 BY MS. CHIEN:

13 Q How much did GEO -- how much did GEO budget per meal?

14 A Approximately 97 cents --

15 Q So --

16 A -- per detainee.

17 Q So it was less than a dollar per day for a meal?

18 A Yes.

19 Q Was that enough food for detainee workers?

20 A Pretty close. I don't think so, but pretty close.

21 Q You say, "I don't think so." Can you tell me why?

22 A There is times that I would have to do inventory counts.

23 And the challenge is, sometimes you didn't get product in,

24 and you had to use another product. So you are off balance

25 and off on your inventory. And so it would be like \$1.05 or

1 \$1.03. That is way over, when it comes to the budget.

2 Q Is a dollar enough to budget in terms of food? Does it
3 affect the food quality served at the detention center?

4 A For quality of food, no.

5 Q Sorry. Can you explain that to me?

6 A So a lot of cheap products, the beans and the rice, that
7 stuff, fine, not an issue. A lot of soy-based products that
8 would come from different companies; one was from Texas that
9 they ordered. I would do order -- have deliveries come up,
10 which they take a couple weeks to come up here. You get
11 substandard quality food in cans. Sometimes they are mixed
12 with spiders or grasshoppers.

13 MR. NEGRON: Objection, relevance.

14 THE COURT: Overruled.

15 THE WITNESS: So in my experience, in food service,
16 my expectation is you get good-quality food all the time.
17 What I found out, working for Northwest Detention Center, is
18 that the products they were getting were not very good
19 products. One particular product, it was chicken, in a
20 50-pound block. Pink chicken. There is no ingredients. It
21 says, "Chicken pieces." That is it. Beef crumbles that were
22 soy-based, so it could be 10 percent meat. You get your
23 protein, you get that all in there. But the actual meat part
24 of it, you don't get.

25

1 BY MS. CHIEN:

2 Q Do you think that the quality of food was related to the
3 fact that GEO budgeted only a dollar per day -- I'm sorry, a
4 dollar per meal?

5 A Yes.

6 Q Let's turn to the work schedules. How long was a typical
7 shift for detainee workers?

8 A Approximately four, four and a half, five hours.

9 Q How many shifts were there?

10 A Three shifts.

11 Q How many detainee workers were necessary to have a
12 breakfast, lunch or dinner shift?

13 A Approximately, I would say, 20-plus, 25.

14 Q That was necessary to get the meals out; is that right?

15 A Yes.

16 Q Including the prep area, serving area, and dish pit; is
17 that right?

18 A Yes.

19 Q Was there ever a time when you didn't have enough detainee
20 workers working in the kitchen?

21 A Many, many occasions, yes.

22 Q What did you have to do?

23 A We had to ask some of the correctional officers to assist
24 on the line. The lowest number we had was probably eight
25 detainees. We are all working the line. We can't do prep

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Angela Nicolavo

ANGELA NICOLAVO
COURT REPORTER

APPENDIX 2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UGOCHUKWO GOODLUCK NWAUZOR,
et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

3:17-cv-05769-RJB

3:17-cv-05806-RJB

Tacoma, Washington

October 15, 2021

Jury Trial

9:00 a.m.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT JUDGE

Proceedings stenographically reported and transcribed
With computer-aided technology

Angela Nicolavo - Court Reporter - 1717 Pacific Ave, Tacoma, WA - 253-882-3832

1 Ms. Henderson, here I think there is a description in
2 the body of the text -- well, first of all, the subject is
3 called "sack lunches."

4 A That is correct.

5 Q Do you recall receiving this?

6 A Yes.

7 Q The subject was -- or the body of the text says,
8 "Ms. Henderson and Ryan Kimble talked to me about the issuing
9 of sack lunches to detainees for work done."

10 A Yes.

11 Q It reports that you directed them that kitchen workers at
12 night can get a sack lunch, but they need to eat it before
13 they leave the kitchen. Do you see that?

14 A That is correct.

15 Q Has that been the consistent policy within the GEO kitchen
16 from that point forward?

17 A It is not a policy. What was happening is that I had to
18 put control over the sack lunches going out. The other
19 reason why they could not take it back to their unit was
20 because they like to keep things for longer periods, and
21 there is no refrigeration or anything like that in the unit.

22 That is why there was a discrepancy of who should get them
23 and what time and all that.

24 Q You agreed with what was written here in terms of how it
25 should function when you give sack lunches to detainees for

1 their work?

2 A Yes, I have -- yes, it was because it needed to be
3 controlled because the sack lunches wasn't part of the pay.
4 Again, you know, it was an initiative to them for what they
5 were doing.

6 Q Like an incentive or extra bonus for their work?

7 A Incentive.

8 Q Is it also true the kitchen makes special meals as bonuses
9 or prizes for the detention units that have the cleanest
10 units after an inspection?

11 A They are not special meals. We call it chicken buffet.
12 They get extra chicken. They get video games. The chicken
13 is the first. Video games. Yes, we do do that.

14 Q You do that for -- as a prize for the unit that passes the
15 housing inspection, correct?

16 A That is correct.

17 MS. BRENNEKE: I have no further questions for you at
18 this time. Thank you.

19 DIRECT EXAMINATION

20 BY MR. BERGER:

21 Q Good morning, Ms. Henderson. My name is Adam Berger. I
22 represent the class plaintiffs in this case. I just have a
23 few follow-up questions for you.

24 Are you familiar with the PBNDS, the Performance-Based
25 National Detention Standards?

1 A Yes, I am.

2 Q You are familiar with those as part of your duties as --
3 in the management team at the Northwest Detention Center,
4 right?

5 A That is correct.

6 Q And you are aware that GEO is supposed to act consistently
7 with the PBNDS in operating its center, correct?

8 A That is correct.

9 Q That includes in its operation of your food service
10 program, correct?

11 A That is correct.

12 Q Are you aware that the PBNDS prohibits using food as a
13 reward for detainees?

14 A Yes, I am. But there is -- again, there is a reasoning
15 behind that. It is a volunteer, first of all. A lot of them
16 do like to come out just to get out of their unit, so there
17 is things like -- there is an incentive for our employees,
18 also for safety. We do safety awards. That is just an award
19 for the detainees for the good job and the appreciation that
20 I have for them when they come in and assist us in the
21 kitchen.

22 Q Well, I think you testified just this morning that --
23 yesterday you testified that detainees working in the kitchen
24 got extra food as an incentive, correct?

25 A That is correct.

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CERTIFICATE

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Angela Nicolavo
ANGELA NICOLAVO
COURT REPORTER

APPENDIX 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UGOCHUKWO GOODLUCK NWAUZOR,
et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

3:17-cv-05769-RJB

3:17-cv-05806-RJB

Tacoma, Washington

October 18, 2021

Jury Trial

9:00 a.m.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT JUDGE

Proceedings stenographically reported and transcribed
With computer-aided technology

1 sure there are some that are applicable, and I am sure there
2 are some that are not.

3 BY MR. WHITEHEAD:

4 Q Constraints also include federal, state and local
5 workplace safety laws, correct?

6 A Yes, the local ones that would apply to whatever situation
7 we are talking about.

8 Q Do you recall Bill McHatton's testimony last week that
9 this included workplace safety laws like OSHA and WISHA?

10 A As employees of the company, my staff fall under the
11 OSHA/WISHA laws, yes.

12 Q And you recall Mr. McHatton's testimony about how those
13 same OSHA and WISHA requirements also pertained to the
14 detainee workers in the work program, correct?

15 A As applicable, the standard does -- the PBNDS does state
16 in there that the government understands that detainees don't
17 fall under those workplace -- the OSHA rules, but it is a
18 good practice to do since we are trying to run a safe and
19 secure detention environment.

20 Q So GEO complies with the workplace safety requirements as
21 it relates to the detainee workers?

22 A In accordance with the PBNDS standards, it lays out some
23 of those guidelines. I am sure we are going to get into the
24 PBNDS standards. But there is a lot of different
25 requirements, and having detainees volunteer, the standard

1 requires us to look at workplace safety. It's just the best
2 thing to do since OSHA has been around since 1971. It is
3 just the right thing to do.

4 Q And those requirements, and GEO's considerations in making
5 sure that detainee workers have a safe condition, include
6 looking at things like safe use of chemicals, correct?

7 A I would consider that very important.

8 Q And making sure that they have the proper personal
9 protective equipment, correct?

10 A That is the right thing to do.

11 Q Does GEO ever fail to comply or satisfy workplace safety
12 requirements with respect to detainee workers?

13 A I do not recall, in fact, where the State has come in and
14 issued anything like that at all.

15 Q Well, more specifically, has GEO ever been issued a formal
16 warning that it was subjecting detainee workers to hazardous
17 working conditions by using pesticides in a manner
18 inconsistent with labelling?

19 MR. CALABRESE: Objection, Your Honor.

20 THE COURT: Overruled.

21 THE WITNESS: There was a notice of warning that came
22 out. EPA came out and looked at labelling. The chemicals
23 that we use are green solution disinfectants and sanitizers.
24 And there is a whole lot of EPA language in there. It was
25 just a notice of warning, it wasn't a finding, that said we

1 should look at the pesticide labelling, which is different in
2 context from the OSHA or the SDS requirements, and to look at
3 that.

4 BY MR. WHITEHEAD:

5 Q So, in that way, sir, you acknowledge that GEO received a
6 warning from the Environmental Protection Agency that GEO had
7 detainee workers using pesticides or cleaning solutions in a
8 way that was inconsistent with the label?

9 A Well, we have to understand more about the EPA. The EPA
10 is not OSHA. So EPA covers not only workers but anybody. So
11 I wouldn't put it in the context of a detainee worker. The
12 Environmental Protection Agency looks at workers and
13 non-workers. They can fine individual people. If you pour
14 motor oil down the drain, EPA could come and fine you. So I
15 wouldn't classify it as a notice of warning to workers.

16 Q Let's take a look at Exhibit 610.

17 MR. WHITEHEAD: Counsel, this will be a new exhibit.

18 BY MR. WHITEHEAD:

19 Q Sir, I'm showing you what has been marked as Exhibit 610.
20 Do you recognize this document?

21 A I do.

22 Q What is it?

23 A This is a FIFRA, a Federal Insecticide, Fungicide and
24 Rodenticide Act, notice of warning for non-compliance with
25 the FIFRA.

1 Q This is the letter from the Environmental Protection
2 Agency you were referencing?

3 A Yes.

4 Q And this letter is signed by the EPA's Air and Land
5 Enforcement branch chair, correct?

6 MR. CALABRESE: Your Honor, GEO objects to the
7 introduction and use of this document. This document has not
8 been previously disclosed. I notice at least, unless I am
9 missing it, it is not even dated. There is no foundation for
10 this letter as a business record or any other type of
11 foundation. It is inappropriate to be introduced or to be
12 used in this manner. He has already been asked questions
13 about this issue, and he has answered those questions.

14 MR. WHITEHEAD: Your Honor, this is an impeachment
15 document. The witness has testified inconsistent with the
16 understanding related in this letter. This letter states
17 contrary facts.

18 THE COURT: Wait a minute. Wait a minute.

19 MR. CALABRESE: This document is hearsay. He is not
20 going to be impeached by a document he had no part in
21 producing or creating.

22 THE COURT: Just a minute, counsel.

23 I think you may inquire, counsel. The document has not
24 been offered in evidence at this point. What is your next
25 question?

1 BY MR. WHITEHEAD:

2 Q Sir, isn't it the case that the EPA found that the
3 Northwest ICE Processing Center routinely employs detainees
4 in voluntary facility programs to assist in the daily
5 cleaning and sanitation of each housing unit and that the
6 materials used by the detainee workers, applied by the
7 detainee workers --

8 MR. CALABRESE: Your Honor, counsel appears to be
9 reading from this letter that has not been introduced and
10 should not be used in testimony.

11 THE COURT: That's a fair objection.

12 BY MR. WHITEHEAD:

13 Q Now, the chemicals at issue, isn't it the case that the
14 EPA's concern was that the detainee workers were using the
15 chemicals, as mixed by GEO, in a way that led them,
16 potentially, to exposure to hazardous chemicals, correct?

17 A I would not agree with that. The chemicals that we use
18 are very similar to chemicals used in hospitals, daycares,
19 schools. They are disinfectants and sanitizers. And when
20 COVID-19 came out, it was very important to disinfect. And
21 we use diluted chemicals that are safe to use. I would not
22 consider them hazardous. Even if we looked at the SDS, the
23 dilution rate of the chemicals makes it even much less than
24 your normal household cleaners and disinfectants.

25 Q And is it the case that the EPA found that the detainee

workers --

MR. CALABRESE: Objection, again, Your Honor. It is assuming facts in this letter that are not in evidence. If he has some independent knowledge of that, we would love to know.

THE COURT: Well, this question is not completed, but the objection to it is overruled.

BY MR. WHITEHEAD:

Q Isn't it the case that the detainee workers were not given access to adequate clean clothing following their use of the cleaning materials that GEO provided?

A I would not agree with that. Detainees have access to regular laundry and have clothing available to use. They could change out clothing any time they want to during the laundry service.

MR. WHITEHEAD: Your Honor, I would like to offer 610 into evidence. It is not a hearsay document. It meets an exception under 803(6) as a public record. It is also self-authenticating under Rule of Evidence 902. It is being offered for impeachment, but separate and apart from that, there is a substantive basis for admitting the document.

MR. CALABRESE: Your Honor, defendant objects to the introduction of this exhibit. It was not produced prior to this very moment this morning. It is undated and it is impossible to know when it was produced.

1 Q Mr. Marquez, where do you live?

2 A In Burien, Washington.

3 Q Are you familiar with the Northwest Detention Center?

4 A Yes.

5 Q How are you familiar with the Northwest Detention Center?

6 A I was detained there. I was detained there from April
7 2017 until December the 1st, 2017.

8 THE COURT: Move the mic over closer to Mr. Marquez.

9 BY MS. CHIEN:

10 Q Can you move the microphone closer to you?

11 Why were you detained at the Northwest Detention Center
12 from April to December of 2017?

13 A Because of my immigration status.

14 Q Had you been detained before coming to the Tacoma
15 facility?

16 A Yes.

17 Q Can you tell me why you were detained before?

18 A I was also detained for the same reasons, for my
19 immigration status twice before. It was in New Orleans,
20 Louisiana, and in Houston, Texas.

21 Q Were you deported those two times?

22 A Yes.

23 Q Why did you come back to the United States?

24 A Because of fear for my life. I was threatened to death.
25 They did indeed kill my brother.

1 Q You mentioned you were detained in Louisiana and Houston;
2 is that right?

3 A Yes.

4 Q Did you ever work in those facilities?

5 A No.

6 Q While you were at the Tacoma facility, did you work in the
7 Tacoma facility?

8 A Yes, I did work in the kitchen, in the bathrooms, and in
9 the painting shop.

10 Q Why did you work at the Tacoma facility?

11 A Well, I needed to pay for my ear surgery. I also needed
12 to buy food because I would be hungry at times. Also, I
13 would need to pay for calls to my family asking for help.
14 Also, I needed to pay for my attorneys.

15 Q You had to make phone calls to your family; is that right?

16 A Excuse me?

17 Q So you had to make phone calls to your family; is that
18 right?

19 A Yes.

20 Q Was that free?

21 A No.

22 Q You had to purchase food; is that right?

23 A Yes, I had to purchase food. And, also, if I wanted to
24 watch a movie on a tablet, for example, they would charge you
25 by the minute. If I wanted to watch, like, a two-hour movie,

1 I would end up spending between 5 to 8 dollars.

2 Q Let's talk about your job in the kitchen. How did you get
3 your job in the kitchen?

4 A Through friends. You know, friends will tell you that if
5 you want to work, one of the choices is the kitchen. And,
6 also, because that was a way of getting more food, if you
7 worked in the kitchen. There were three shifts, and I got to
8 pick, like, the late evening one because that's when they
9 gave you most of the food.

10 Q I have to take a step back and ask just sort of the
11 mechanics of how did you request a job from GEO?

12 A Through the computer. I had to access the computer and to
13 file a request. Then I had to wait. And they responded to
14 me after seven days and then they told me that I had been
15 approved to do that. But then I was going to be placed on
16 this waiting list and they were going to call me whenever
17 there was a job opening or some job available. Finally, they
18 called me, and so I had to go to see an officer and I would
19 have to fill out forms.

20 Q What forms did you have to sign?

21 A The rules and also the voluntary work form for one dollar
22 a day.

23 Q I am going to show you Exhibit A-286 on your screen and
24 ask if you recognize this.

25 A Yes, that is the agreement for voluntary work.

1 told them to check the cameras so that they could see.

2 But what they told me was that -- the officer who
3 responded to me said that that was not their problem, that I
4 needed to take care of that with GEO, but they never sent the
5 information to GEO so that they could even talk to me or do
6 anything about it.

7 Q Do you remember when you submitted the complaint about
8 GEO's supervision?

9 A Yes, I do remember. It must have been around September or
10 October.

11 Q I would like to show you Exhibit 607. Do you recognize
12 this?

13 A Yes.

14 Q Is this the complaint you filed?

15 A Yes.

16 MS. CHIEN: I would like to offer into evidence
17 Exhibit 607.

18 MS. ARANGO: No objection.

19 THE COURT: 607 may be admitted.

20 (Exhibit 607 was admitted.)

21 Q This is the complaint you sent to ICE?

22 A Yes. So, yes, that is the complaint I filed because of
23 poor treatment, they were not treating me well. So it so
24 happened that once I was ill and I requested to be able to go
25 back to my room, but they denied it. So even if I was ill, I

1 still worked.

2 Ever since I got in, I informed them that I was suffering
3 from facial paralysis and that I was taking pills for it and
4 gave them all the information, but they still --

5 Q And the response at the bottom -- I would like to
6 hopefully do a callout -- from ICE was that this is a GEO
7 issue. You have to report it to GEO; is that right?

8 A Yes, but I never had any other answer and GEO never
9 came -- anybody from GEO ever came to talk to me.

10 Q So this was dated, if we look, September 30th, 2017; is
11 that right?

12 A Yes.

13 Q Did you ultimately quit working in the kitchen?

14 A Yes, because I never got a response and I was feeling
15 pretty frustrated and stressed out because there was no
16 solution for that.

17 Q But there was a time when you asked to return to work in
18 the kitchen; is that right?

19 A Yes.

20 Q Why did you ask to return to work in the kitchen?

21 A Because I ran out of money, I was hungry, and I needed
22 some more food.

23 Q So in addition to the kitchen, I think you said you
24 worked -- where else did you work?

25 A Bathroom and the paint shop.

1 Q When you -- what were you doing in the bathroom?

2 A I was cleaning the showers. At the beginning, I was
3 washing the toilets, then I changed and I was washing the
4 showers.

5 Q Can you tell -- can you describe that work?

6 A I had to wash the walls. I had to use, like, chemical
7 products and disinfectant and water and chlorine, and do the
8 same thing on the floor, the water, the disinfectant, the
9 chlorine, then I had to mop it, and then I basically had to
10 go check with the officer so that I could check with him that
11 I had done the job.

12 Q And who provided these disinfectants and the mops and the
13 other equipment to do this work?

14 A The GEO officer.

15 Q And how much were you paid for this work?

16 A One dollar a day.

17 Q I would like to show you Exhibit 408, and I am going to
18 ask you to turn to page 29.

19 Do you recognize this page?

20 A Yes. That was my signature on the page that you had to
21 sign when you were done with your job. They would never let
22 you sign, like, before the job was completed.

23 MS. CHIEN: I would like to offer into evidence
24 Exhibit 408.

25 MS. ARANGO: I don't have an objection, but I would

1 Q Did you have a car before you were detained at the Tacoma
2 facility?

3 A Yes.

4 Q What happened to that car?

5 A Yes, I did have a car, and I had to sell it to survive at
6 the detention center in Tacoma in order to pay for attorneys,
7 to pay for food. I wanted to save for my ears and to send to
8 my children. And I even had some problems with my kids all
9 the time that I was detained there because I did not have
10 enough money to send any to them.

11 Q When you were released from the Tacoma facility in
12 December, how much money did you have in your account?

13 A I remember that when I was released in December, I ended
14 up with \$22 to \$24, and I was thinking, "Wow, all the time
15 that I was working there." I used to live in Everett back
16 then, and the money was not even enough for me to take a taxi
17 to go back home.

18 Q Why were you released from the Tacoma facility?

19 A They accepted my case to remain in the United States.

20 Q Your immigration case; is that right?

21 A Yes.

22 Q Did that mean you are allowed to stay in the
23 United States?

24 A Yes.

25 Q Do you have a work authorization?

1 A Yes.

2 Q What kind of work do you do now?

3 A I have different jobs, like painting. I paint bridges or
4 boats or water tanks.

5 Q How much do you get paid an hour?

6 A It depends on the company. But the most I have been paid
7 is \$45 an hour.

8 Q Would you have worked in the Tacoma facility if you
9 weren't receiving food, extra food?

10 A No. I mean, the thing is that I would, like, work out and
11 I would also do some crafts or art. That was my hobby. But
12 I decided to work, and I decided to work because I wanted to
13 eat and I wanted to save money for my devices, for my
14 surgery, to pay my attorneys, for my kids, for all of that.
15 And that's why, when I came out, I could not believe that
16 after all the work I had done, I only ended up with that
17 amount of money.

18 MS. CHIEN: Thank you. No further questions.

19 CROSS-EXAMINATION

20 BY MS. ARANGO:

21 Q Good morning, Mr. Marquez. My name is Jackie Arango. I
22 represent The GEO Group in this case. I am going to be
23 asking you some questions. If you have any trouble
24 understanding me -- I know you have a very good interpreter.
25 If you have any trouble understanding me, just let me know.

1 THE COURT: Excuse me. Why don't you raise that up
2 so you can speak right into it.

3 MS. ARANGO: Thank you, Your Honor.

4 BY MS. ARANGO:

5 Q Now, just to be clear, you were at the Northwest Detention
6 Center for about eight months, from April 25, 2017 to
7 December 1st, 2017?

8 A Yes.

9 Q You were deported twice before you got arrested the last
10 time that brought you to the Northwest Detention Center; is
11 that correct?

12 A Yes.

13 Q The reason that you were arrested and detained was because
14 of ICE; is that correct?

15 A Yes.

16 Q It wasn't GEO that arrested you?

17 A No.

18 Q Your immigration case proceeded at the detention center;
19 is that correct?

20 A Yes.

21 Q In fact, there are courtrooms at the detention center
22 where your case was litigated?

23 A Yes.

24 Q GEO had no involvement in your immigration case?

25 A No.

1 Folks, you may be excused.

2 (The following occurred outside the presence of the jury.)

3 THE COURT: Don't leave, counsel.

4 Mr. Kimble, don't leave yet.

5 THE WITNESS: Sorry.

6 THE COURT: Mr. Kimble, I want to point something out
7 to you.

8 THE WITNESS: Yes, sir.

9 THE COURT: A minute ago, there was a question, "GEO
10 doesn't bill ICE ahead of time for detainee worker pay, does
11 it?" A simple question. A yes-or-no answer is called for.

12 Your answer was one, two, three, four, five, six, seven,
13 eight, nine lines on my computer.

14 The point is, it would be very helpful if you would just
15 answer the question and not try and explain every answer,
16 when your explanation is not requested. Your job is to
17 answer the questions, okay?

18 THE WITNESS: Yes, sir.

19 THE COURT: Okay. Thank you for that.

20 Now, the other thing is, if you lawyers would adjust the
21 height of the microphone so that it is at exactly the level
22 of your mouth, then maybe it would be easier to hear you and
23 I wouldn't have to keep adjusting my sound up here. You
24 know, don't be shy. That thing may squeak on you, but it is
25 not going to hurt you.

1 Okay. Let's take a break.

2 (Recessed.)

3 THE COURT: Are you in charge of the jury again?

4 Bring them in.

5 (The following occurred in the presence of the jury.)

6 THE COURT: Counsel, you may continue.

7 MR. POLOZOLA: Thank you, Your Honor.

8 BY MR. POLOZOLA:

9 Q Mr. Kimble, as a business manager, you are familiar with
10 the Northwest Detention Center's actual operating margins on
11 a yearly basis, correct?

12 A Yes.

13 Q What is your understanding of the term "operating margin"?

14 MS. ARANGO: Objection, relevance.

15 THE COURT: Overruled.

16 THE WITNESS: Our operating margin would be basically
17 what we have coming in based on the contract from the client
18 and then taking out what our expenses were locally here at
19 the facility.

20 BY MR. POLOZOLA:

21 Q So it is your revenue minus your expenses, correct?

22 A Yes, that's the word. Yes, revenue minus expenses.

23 Q It's your profit, correct?

24 A It's my operating margin for the facility.

25 Q Does your operating margin include GEO's revenue minus its

1 labor expenses?

2 A Say that one more time, please.

3 Q Does operating margin include revenue minus GEO's labor
4 expenses at the Northwest Detention Center?

5 A It's minus all expenses that I have listed for the
6 facility, and revenue is part of that, yes.

7 Q So GEO has to pay staff overtime because there aren't
8 enough detainee workers to do the work necessary in the
9 facility; that cuts into GEO's operating margin, correct?

10 A That would take a portion of it out, yes.

11 Q Just like any company anywhere, that would cut into your
12 profit, right?

13 A Yeah, if it is above what we've budgeted for.

14 Q And in your experience, what has GEO's annual operating
15 margin been for the Northwest Detention Center?

16 MS. ARANGO: Objection, relevance.

17 THE COURT: Overruled.

18 THE WITNESS: Somewhere around 30 percent.

19 BY MR. POLOZOLA:

20 Q Can you give me an actual number?

21 A Like on a -- it's ranged from -- anywhere from 18 million
22 to 20 million at the end of the year.

23 Q Thank you.

24 MR. POLOZOLA: No further questions, Mr. Kimble.

25 Counsel may have some additional questions for you.

1 MR. BERGER: Is this a good height, Your Honor? Can
2 you hear me all right?

3 THE COURT: I can hear you all right. You are still
4 two inches below mouth level.

5 MR. BERGER: Is that better?

6 THE COURT: Go ahead.

7 DIRECT EXAMINATION

8 BY MR. BERGER:

9 Q Good afternoon, Mr. Kimble. My name is Adam Berger and I
10 represent the private class plaintiffs in these cases.

11 I just wanted to quickly review some of the things you
12 have talked about already. I think you said GEO uses
13 something called the Keefe banking system to keep track of
14 detainee accounts, right?

15 A Correct.

16 Q And it pays the detainee workers in the voluntary worker
17 program through that system, right?

18 A Through reimbursement, yes.

19 Q It puts a one-dollar credit in that banking system for the
20 detainee whenever they work a shift, right?

21 A That is correct.

22 Q And that usually happens a day or two after the work is
23 performed, correct?

24 A That is correct.

25 Q And then if detainees buy something at the commissary, it

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Angela Nicolavo

ANGELA NICOLAVO
COURT REPORTER

APPENDIX 4

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Defendant.

APPENDIX 4, p. 2

1 MR. CALABRESE: I have no further questions at this
2 time. GEO would reserve the right to recall this witness in
3 presentation of our case.

4 Thank you.

5 REDIRECT EXAMINATION

6 BY MS. BRENNEKE:

7 Q Mr. Hill, just one question. From 2006 through 2009,
8 there was no reimbursement by ICE for the detainee worker
9 payments; is that correct?

10 A According to the documents, that is correct.

11 MS. BRENNEKE: Thank you.

12 THE COURT: Thank you, Mr. Hill. You may step down.

13 MS. BRENNEKE: Your Honor, the State calls Mr. Evans,
14 Brian Evans.

15 THE COURT: We are close to a break. I think I will
16 let you go for an additional break. I didn't have a break
17 already like you. Anyway, we will try and reconvene about
18 10:35 and then go through until noon.

19 (Recessed.)

20 (The following occurred outside the presence of the jury.)

21 THE COURT: Please be seated. I took a quick look at
22 what was marked as 602 and subparts. Are we -- am I supposed
23 to do something with them or consider them?

24 MS. BRENNEKE: Not from my perspective, Your Honor.

25 THE COURT: Okay. Bring your witness and the jury

1 in.

2 MS. BRENNEKE: Thank you. The State calls
3 Brian Evans. We don't have a jury yet.

4 (The following occurred in the presence of the jury.)

5 THE COURT: If you will raise your right hand and be
6 sworn.

7 BRIAN EVANS,
8 having been sworn under oath, testified as follows:

9 THE COURT: Let me ask you to keep your voice up and
10 speak right into the mic, please.

11 DIRECT EXAMINATION

12 BY MS. BRENNEKE:

13 Q Good morning.

14 A Good morning.

15 Q Will you please state your name and spell it for the
16 record?

17 A Brian Evans, B-R-I-A-N, E-V-A-N-S.

18 Q Who is your employer?

19 A The GEO Group Inc.

20 Q What is your title?

21 A Chief financial officer.

22 Q When did you become GEO's chief financial officer?

23 A August of 2009.

24 Q As the chief financial officer for GEO, you have duties
25 and responsibilities to oversee all of GEO's corporate

1 finance and accounting functions; is that right?

2 A That's correct.

3 Q You also oversee the tax functions?

4 A Yes.

5 Q Also the capital market activities or stock activities; is
6 that right?

7 A Yes.

8 Q As CFO, are you the highest-ranking financial officer for
9 the company?

10 A Yes.

11 Q You are also like the second highest-ranking officer
12 overall; is that right?

13 A That's correct.

14 Q You are based in Florida; is that correct?

15 A Yes.

16 Q That's where the headquarters of The GEO Group is?

17 A Yes.

18 Q GEO is a for-profit publicly-traded corporation; is that
19 right?

20 A That's correct.

21 Q Traded on the New York Stock Exchange?

22 A Correct.

23 Q What is the stock ticker?

24 A G-E-O.

25 Q Every year, GEO distributes about 90 percent of its

1 profits to shareholders; is that right?

2 A Since we have been a real estate investment trust, yes.

3 Q How long have you been a real estate investment trust?

4 A Since 2013.

5 Q You are also a shareholder of The GEO Group, aren't you?

6 A That's correct.

7 Q So this case is about wages and what GEO pays. What was
8 your total compensation in 2020?

9 MR. CALABRESE: Objection, Your Honor, inappropriate,
10 invasive and irrelevant.

11 THE COURT: Sustained.

12 BY MS. BRENNEKE:

13 Q Let me understand something, though. As part of your
14 compensation, do you get both a salary and stock at your
15 level?

16 MR. CALABRESE: Objection, Your Honor, same reasons.

17 THE COURT: I think he may answer this.

18 THE WITNESS: Yes, I am compensated cash compensation
19 and some stock as well.

20 BY MS. BRENNEKE:

21 Q As CFO, you are also a member of the overall GEO
22 leadership team, and part of all the significant decisions
23 that are made by the corporation; is that correct?

24 A Generally, yes, that's correct.

25 Q Now, in approximately 2005, GEO came to acquire and own

1 isn't that correct?

2 A That's correct.

3 Q It did not change its practices at all and did not pay
4 minimum wage to the detainee workers, correct?

5 A That's correct.

6 Q Instead, it chose to fight this lawsuit?

7 A That's correct.

8 Q And then in 2018, you are aware that GEO actually
9 calculated what it would cost to comply with the minimum wage
10 law at the Northwest Detention Center; is that correct?

11 A I am not sure what you are referring to.

12 Q Well, you know that as a top executive of the corporation,
13 there was some correspondence regarding the minimum wage
14 lawsuit and what it would cost to comply with the demands of
15 the State of Washington; is that correct?

16 A I am aware of the letter that you speak of, yes.

17 Q You, as the CFO, reviewed the estimates that GEO -- other
18 GEO people had created about how to comply with the minimum
19 wage and what it would cost; is that correct?

20 A No, I did not review the estimate, I do not believe.

21 Q You reviewed the numbers that were in the letter?

22 A I reviewed the letter.

23 Q The letter had estimates of the cost; is that correct?

24 A That's correct.

25 Q And you approved the letter that included the estimates of

1 the cost; is that correct?

2 A I did not approve the letter.

3 Q You knew it went out?

4 A I knew it went out.

5 Q In 2018, GEO considered two ways in which it could comply
6 with the Minimum Wage Act as part of that exercise; is that
7 correct?

8 A As part of the letter?

9 Q Uh-huh.

10 MR. CALABRESE: Objection, Your Honor. No foundation
11 for the question.

12 THE COURT: Overruled.

13 THE WITNESS: In the letter, there were two
14 alternatives, I believe, discussed, yes.

15 BY MS. BRENNEKE:

16 Q The first alternative was that GEO could pay detainee
17 workers the minimum wage, correct?

18 A Yes.

19 Q The second alternative was that GEO could, instead, employ
20 full-time staff from the community to replace the detainee
21 workers; is that right?

22 A Yeah, I believe the purpose of the letter was to
23 illustrate to the government what it could cost the
24 government if the State of Washington minimum wage laws were
25 to apply, or if we were to conform the contract and pay, you

1 know, local citizens to do the work within the facility. So
2 it was illustrative of the purpose.

3 Q And as to the first calculation, paying minimum wage to
4 detainee workers for 2018, GEO estimated the cost was about
5 \$3.4 million a year; is that correct?

6 MR. CALABRESE: Objection, Your Honor, predicate.

7 THE WITNESS: I believe so. I don't have the letter
8 in front of me.

9 THE COURT: The answer may stand.

10 BY MS. BRENNEKE:

11 Q And when you -- when I questioned you under oath in June,
12 you indicated that the amount was --

13 MR. CALABRESE: Objection.

14 MS. BRENNEKE: Can I finish my question?

15 MR. CALABRESE: No.

16 THE COURT: You may finish your question.

17 BY MS. BRENNEKE:

18 Q -- you indicated the amount that it would -- it was
19 estimated that the cost to pay minimum wage to detainees in
20 2018 was \$3.4 million a year; is that correct?

21 A That's what the letter indicated.

22 Q As to the second calculation, GEO's estimate was that it
23 would need to hire 85 full-time employees to replace the
24 detainee workers at the Northwest Detention Center; is that
25 correct?

1 A I don't know. I don't have the letter in front of me.

2 Q But when you testified in June, you testified that as to
3 the Northwest Detention Center, the estimate is that there
4 would be 85 full-time employees needed to replace the
5 detainee workers; is that correct?

6 MR. CALABRESE: Objection to the characterization of
7 what was testified to and what the questions were in a
8 deposition or earlier.

9 THE COURT: I think he may answer this question, if
10 he knows.

11 THE WITNESS: Do you want to ask the question again?

12 BY MS. BRENNEKE:

13 Q When GEO did the estimate of what it would take to replace
14 detainee workers with full-time workers from the community,
15 GEO estimated that it would need to hire 85 full-time
16 employees to replace the detainee workers at the Northwest
17 Detention Center; is that correct?

18 A That's correct.

19 Q Now, in 2018, GEO, again, even though it did this, these
20 calculations, it chose not to change its policy, didn't it?

21 A That is correct.

22 Q And GEO chose to keep paying detainee workers a dollar a
23 day for their work; is that right?

24 A That's correct.

25 Q And in 2018, GEO was at the same time earning profits from

1 A All the time that I have been here, 22 years.

2 Q Have you heard of the Northwest Detention Center?

3 A Yes. I was detained there for over one year.

4 Q When were you detained at the Northwest Detention Center?

5 A (No response.)

6 Q If I said it was April of 2018, would that be correct?

7 THE INTERPRETER: I'm sorry. Could you repeat the
8 date?

9 BY MS. CHIEN:

10 Q Would it be April of 2018?

11 A Correct.

12 Q Until May of 2019?

13 A That's right.

14 Q Were you detained at the Northwest Detention Center
15 because you were serving a criminal sentence?

16 A No.

17 Q Why were you arrested by ICE?

18 A Because I was working as a daycare worker at a daycare for
19 kids.

20 Q Did you have a work authorization?

21 A No.

22 Q Were you paying taxes?

23 A Yes.

24 Q So you testified you were detained for more than a year;
25 is that right?

1 A Correct.

2 Q So you were separated from your kids for more than a year?

3 A That was very hard, very -- really hard for me, but, yes,
4 I was separated from them.

5 Q Did you get to hug your kids while you were detained for
6 over a year?

7 THE INTERPRETER: I'm sorry, could you repeat?

8 BY MS. CHIEN:

9 Q Did you get to hug your kids while you were detained for
10 over a year?

11 A No, I never got the chance to do that.

12 Q How did you keep in touch with your kids?

13 A Through phone calls that were very expensive, actually.

14 Q Let's talk about the Northwest Detention Center itself.

15 When you arrived at the Northwest Detention Center,
16 where did you enter?

17 A I got to this place that they call intake. That's where
18 they ask you a bunch of questions and they check and they
19 kind of, like, set up your profile and then they take away
20 all of your belongings.

21 Q Who cleaned the intake area?

22 A I saw people cleaning there who were wearing uniforms like
23 the one I was given when I got there.

24 Q Were they detainees?

25 A Yes, it was detainees.

1 Q Can you describe the intake area?

2 A It was a large circle where the guards or the people who
3 were doing surveillance were there. They had their computers
4 next to them. And then there were some security, like, areas
5 or rooms also. And then, inside, there was one bathroom
6 where there were no curtains or anything, so you basically
7 had no privacy in there.

8 Q Is that where the detainees were kept during intake?

9 A Correct. It was a very dirty area.

10 Q Why was it dirty?

11 MS. ARANGO: Objection, speculative, lack of
12 foundation, irrelevant.

13 THE COURT: Sustained.

14 BY MS. CHIN:

15 Q Were you in -- were you in the intake area frequently
16 while you were detained for over a year in the facility?

17 A Yes, because I had, frequently, appointments there for the
18 dentist, for physical checks, for psychologist and
19 psychiatrist.

20 Q I think you mentioned you saw detainees clean the intake
21 area; is that right?

22 A Correct.

23 Q Did you ever see GEO staff cleaning the intake area?

24 A I never saw them cleaning.

25 Q From the intake area, were you taken to a living unit?

1 Q Did you meet with an immigration attorney while you were
2 detained at the Northwest Detention Center?

3 A Yes.

4 Q Did you meet with them in the visitation area?

5 A Correct.

6 Q Did you see who cleaned or maintained the visitation
7 areas?

8 A Yes. It was inmates who would do that.

9 Q Detainees?

10 A Most of the time. And then I saw some men.

11 Q Male detainees; is that right?

12 A Correct.

13 Q Did you ever see GEO staff cleaning or maintaining the
14 visitation area?

15 A I never saw them.

16 Q Were you able to exercise while at the Northwest Detention
17 Center?

18 A Yes.

19 Q Where would you exercise?

20 A It was either inside the unit, or there were also some
21 activities that we could do outdoors, and that would be like
22 basketball or soccer.

23 Q Talking about the indoor area, who cleaned and maintained
24 the indoor recreation area?

25 A The inmates, us.

1 Q Did you ever see GEO staff clean the recreation area?

2 A Never. Never saw them.

3 Q Did you also work at the Northwest Detention Center?

4 A Yes.

5 Q Why did you want to work?

6 A Because I did not know what was going to happen with my
7 own situation. I needed to save money in case they sent me
8 back to Mexico. Also to make calls to my children and to
9 feel a little better, so that I would be in a better place to
10 go through all this process.

11 I also used the money to buy food, which is very expensive
12 in there, and, also, you know, like soap, shampoo, bras,
13 panties, any type of personal items that you would need, you
14 know, that you would need to use in there.

15 Q Did GEO not provide food and shampoo and underwear?

16 A They did give you some soap that came in containers, but I
17 was allergic to that soap. It was kind of like the shampoo,
18 but I had to order my own shampoo.

19 They did provide food, but it was very scarce, the food.
20 Also, I was suffering from anxiety from being locked up, so I
21 had to eat more to take care of my anxiety.

22 Q How much were you paid to work in the work program at the
23 Tacoma facility?

24 A One dollar a day.

25 Q How did you survive at the Tacoma facility if you could

1 only work for a dollar per day?

2 MS. ARANGO: Objection, Your Honor. "Survive,"
3 improper predicate, improper question.

4 THE COURT: Sustained.

5 BY MS. CHIEN:

6 Q Could you support yourself for a dollar per day --

7 MS. ARANGO: Same objection, Your Honor.

8 BY MS. CHIEN:

9 Q -- while working at the Tacoma facility?

10 THE COURT: She may answer this question.

11 THE WITNESS: No.

12 BY MS. CHIEN:

13 Q Did you have to ask family and friends for money?

14 A Yes. Many times, my family was not able to help, and so I
15 had to ask my friends, but not always I got a response from
16 them.

17 Q How did it feel to ask for friends' help with money?

18 MS. ARANGO: Objection, relevance.

19 THE COURT: Sustained.

20 BY MS. CHIEN:

21 Q Did you want to ask friends and family for money?

22 A No. I would rather have my family spend their money
23 paying for the school supplies or the clothing for school for
24 my children.

25 Q I think you mentioned that you had to buy food. Can you

1 is anything special on my calendar tomorrow that will
2 interrupt us. Please continue to follow my instructions
3 about recesses. Have a nice evening. Come back tomorrow at
4 9:00.

5 (The proceedings adjourned.)

6
7
8 CERTIFICATE

9
10
11 I certify that the foregoing is a correct transcript from
12 the record of proceedings in the above-entitled matter.

13
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15
16 /s/ Angela Nicolavo
17 ANGELA NICOLAVO
18 COURT REPORTER
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APPENDIX 5



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-C04

RETURN RECEIPT REQUESTED

Mr. Bruce Scott
Assistant Facility Administrator
GEO Group, Inc.
Northwest ICE Processing Center
1623 E J Street
Tacoma, Washington 98421

Re: FIFRA NOTICE OF WARNING of non-compliance with the Federal Insecticide, Fungicide and Rodenticide Act

Dear Mr. Scott:

This is a formal notification from the U.S. Environmental Protection Agency (EPA), Region 10, that GEO Group, Inc. ("GEO Group") is in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for using a pesticide in a manner inconsistent with its labeling. EPA, Region 10, received complaints that detainees at GEO Group's Northwest ICE Processing Center (NWIPC) in Tacoma, Washington, were being exposed to pesticide. In response, EPA, Region 10, FIFRA inspectors conducted a review of NWIPC facility through interviews with NWIPC Staff and attorneys, detainees and La Resistencia in the fall of 2020. EPA, Region 10, also collected information from GEO Group and the product registrants through Information Request Letters. The information collected revealed GEO Group is in violation of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. 136j(a)(2)(G), which states that it is unlawful to use any registered pesticide in a manner inconsistent with its labeling.

EPA has concluded the pesticides GS Neutral Disinfectant Cleaner (EPA Reg. No. 1839-169-5741) and Sani-T-10 Plus® (EPA Reg. No. 10324-117-5741) have been applied at NWIPC in a manner inconsistent with its labeling due to a lack of required personal protective equipment (PPE) being made available to applicators. The "User-prepared solution" labels for both GS Neutral Disinfectant Cleaner and Sani-T-10 Plus® have precautionary statements that include the language, "Remove and wash contaminated clothing before reuse." NWIPC routinely employs detainees in a "Voluntary Facility Activities Program" to assist in the daily cleaning and sanitation of each housing unit (pod). Records obtained by EPA of daily sanitation unit reports indicate that up to 48 separate pesticide applications could occur in each housing unit on a given day.

Specifically, the daily sanitation unit reports indicate the following areas of application and corresponding frequency of application:

- Tables and chairs: nine times per day
- Phones, tablets, exercise equipment, call boxes and door handles: nine times per day
- Showers and toilets: six times per day
- Tables (before and after each meal): six times per day
- Microwaves, sinks and counters: nine times per day
- Officer desk and phone: nine times per day

Given the frequency of pesticide applications occurring within each pod and the fact that detainees must request that contaminated clothing be washed following an application, as stated by NWIPC staff during the EPA-GEO Group interview, EPA believes detainees applying GS Neutral Disinfectant Cleaner and Sani-T-10 Plus® are not given adequate access to clean clothing. Furthermore, information collected by EPA from people formerly held at NWIPC indicate, at times, a lack of responsiveness from NWIPC staff towards the detainees' concerns. This could further inhibit detainees from accessing clean clothing following a pesticide application that results in the applicator's clothing being contaminated. Per both product labels, GEO Group must ensure any contaminated clothing is washed prior to reuse.

EPA is also concerned that GS Neutral Disinfectant Cleaner and Sani-T-10 Plus® are being used in a manner that results in detainees being exposed to the products. The Directions for Use section of the Sani-T-10 Plus® label states, "Do not breathe spray." Similarly, the Directions for Use section of the GS Neutral Disinfectant Cleaner label states, "Do not breathe the spray mist." Multiple detainees at NWIPC have complained of sore throats and headaches in connection with applications of these pesticide products, indicating detainees may be inhaling the products being applied due to their proximity within the living areas. The continual applications may also result in detainee exposure.

This Letter of Warning constitutes a "written warning" as described under Section 14(a)(4) of FIFRA, 7 U.S.C. 136/(a)(4). Subsequent violations of FIFRA may subject you to Stop Sale Use or Removal Orders (SSURO) and/or civil penalties of up to \$20,528 per violative act.

Please provide a written response within 30 days of receipt of this letter and describe the steps you have already taken or will take to ensure compliance with FIFRA. Please send the response to Nick Hurwit at hurwit.nicholas@epa.gov.

We have enclosed a Small Business Regulatory Enforcement Fairness Act (SBREFA) information fact sheet. EPA has agreed to notify small businesses of their rights pursuant to SBREFA to comment to the SBREFA ombudsman regarding any regulatory enforcement activity. Please note that SBREFA neither eliminates your responsibility to comply with FIFRA nor creates any new rights or defenses under law.

If you have any questions about this letter or the requirements of FIFRA please contact Nick Hurwit by telephone at (206) 553-6221 or by email at hurwit.nicholas@epa.gov.

Sincerely,

MORGAN
JENCIUS

Digitally signed by
MORGAN JENCIUS
Date: 2021.07.06
08:49:46 -07'00'

Morgan Jencius, Chief
Air and Land Enforcement Branch

Enclosure

APPENDIX 6

MEMORANDUM

Date: October 29, 2021

To: All Detainees

CC:

From: Bruce Scott, Facility Administrator

A handwritten signature in black ink, appearing to read "B. Scott", written over the name "Bruce Scott" in the "From:" line.

The GEO Group, Inc.
GEO Secure Services
Northwest ICE Processing Center
1623 East J Street
Tacoma, WA 98421

www.geogroup.com

RE: VOLUNTARY WORK PROGRAM SUSPENSION

On 10/28/2021 ICE suspended the detainee Voluntary Work Program at the Northwest ICE Processing Center. Detainees may not perform any of these previous activities.

The ICE National Detainee Handbook as well as the local detainee handbook still require the following in accordance with the ICE Performance Based National Detention Standards.

All detainees are responsible for personal housekeeping. Detainees are required to maintain their immediate living areas in a neat and orderly manner by:

1. making their bunk beds daily;
2. stacking loose papers;
3. keeping the floor free of debris and dividers free of clutter; and
4. refraining from hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures or other furniture.

Thank you,

APPENDIX 7



MEMORANDUM

Date: December 13, 2021

To: All Detainees

CC:

From: Bruce Scott, Facility Administrator 

The GEO Group, Inc.
GEO Secure Services
Northwest ICE Processing Center
1623 East J Street
Tacoma, WA 98421

www.geogroup.com

RE: VWP SUSPENSION

The Voluntary Work Program at this facility has been temporarily suspended. As a result, no detainee is permitted to do any work previously done under the Program, including, but not limited to, work in the kitchen, the laundry areas, cutting hair, painting, waxing, or scrubbing floors, or cleaning the secure areas of the facility (except for cleaning up around each person's own immediate living area).

El Programa de Trabajo Voluntario en esta instalacion se ha suspendido temporalmente. Como resultado, a ningun detenido se le permite hacer ningun trabajo realizado previamente bajo el Programa, incluyendo, pero no limitado a, trabajar en la cocina, las areas de lavanderia, cortar el cabello, pintar, encerar o fregar pisos, o limpiar las areas seguras de la instalacion (excepto para limpiar alrededor del area de vida inmediata de cada persona).

APPENDIX 8

MEMORANDUM

Date: 12/9/2021

GEO Secure Services™
 Northwest ICE Processing Center
 1623 East J. Street
 Tacoma, WA 98421

To: **All Detainees – Post on Bulletin Boards**

From: S. Delony, Fire and Safety Manager

www.geogroup.com

RE: SANITATION INSPECTION RESULTS WEEK OF 12/6/2021.

		<u>Winners</u>
1st	Chicken Winner 1 Includes X-Box	C3/A2
2nd	Chicken Winner 2 Includes X-Box	A3
3rd	X-Box Winner	F3
4th	X-Box Winner	B3

Tiebreakers determined by who had the better score the previous week(s) or had a larger improvement.

X-Box units are rotated on Fridays of the following week.

**Popcorn and Late night will be awarded to those Pods receiving 15 points or fewer.

**Kettle corn will only be given to first through fourth place winners with 10 points or fewer.

Chicken Buffet provided to the winners the following week

The Chicken Buffet will follow this schedule:

1st Place will be served on – Thursday at Lunch

2nd Place will be served on – Thursday at Dinner

*Program rules may change at any time.

APPENDIX 9



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Division of Occupational Safety and Health

10049 Kitsap Mall Boulevard NW, Silverdale, WA 98383

14 FEB 2022

Maru Mora Villalpando
maruvillalpando@gmail.com
Inspection #: 317965491

Dear Maru Mora Villalpando:

Earlier, you contacted us about a hazard you believe exists at Geo Corrections & Detention, 1623 East J StreetNw Detention Ctr #214Tacoma, WA 98421.

In response to your complaint, we inspected this workplace. Our inspection found: The GEO group manages the Northwest U.S. Immigration & Customs Enforcement (ICE) Processing Center located in Tacoma, WA. The ICE Processing Center is a minimum, medium and maximum security center that opened in 2004 with capacity for 1,575 immigrant detainees. A referral was received to open an inspection due to a COVID-19 outbreak at the facility and improper use of cleaning chemicals at the facility. During the inspection additional complaints were received regarding lack of training to clean toilets and showers, and about a COVID fatality.

At the time of the opening conference, GEO reported nine (9) positive staff members. The facility has mandatory screening for all employees entering the facility at the beginning of their shift which includes a temperature check (must be below 100.4), symptom checklist, and questions on if they have been around anyone with symptoms/who has tested positive. If an employee fails any portion of the screening check, or if they begin to feel ill during the work day, they are sent home to quarantine for 14 days. The facility also follows contact tracing guidelines for if a coworker falls ill during the workday or develops symptoms after leaving for the day. There are also rapid tests for any persons entering who are unvaccinated or for anyone who begins experiencing symptoms while on the premises. After the winter holidays a second COVID breakout hit the facility with upwards of 18 staff members reporting COVID positive tests to GEO Group. The COVID fatality that was reported to the Department through a complaint was not of a GEO officer but of an ICE Federal Officer, which was communicated by GEO Facilities Administrator and their legal representative Joseph Santoro (Gunster) and also confirmed through the Labor and Industries claims department.

Regarding chemical use at the facility, the two main cleaners are GS Neutral and Sani T 10 Plus. GS Neutral is the every day cleaner that is used around the facility and the Sani T 10 Plus is used to clean the tables before the meals. The chemicals are used by both the officers and the detainees. Officers are responsible for changing out the concentrated bottles into the closed loop system that are used to make the diluted every day cleaner. There are no eye wash stations in the janitorial closets where these systems are housed. Officers were asked to clean the toilets and showers after GEO discontinued its voluntary detainee worker program however GEO has since hired a janitorial contractor to assist with cleaning tasks. Officers have received basic hazard communication and

bloodborne pathogen training and have access to personal protective equipment.

Based on reading the written programs, employee interviews, and a site walk, the following citation is proposed:

SERIOUS:

1-1 WAC 296-800-15030 Make sure emergency washing facilities are functional and readily accessible.

If you disagree with the inspection results

You may ask for a review of the inspection results by writing to the Regional Compliance Manager explaining your disagreement. If after reading the posted Citation and Notice, you believe the abatement date for a citation is unreasonable you have the right to appeal by following the instructions on the Citation and Notice.

John Korzenko
950 Broadway
Tacoma, WA 98402
(253) 596-3888

If any employer takes action against you for reporting this hazard

This may be discrimination. Even when we have not revealed your name, we cannot guarantee that your employer won't find out who filed this complaint. If you believe an employer has taken action against you for reporting hazards or for participating in workplace safety and health activities, you may call or write us. To consider your WISHA discrimination complaint, we must receive it within 30 days of the alleged discrimination. Call our WISHA discrimination section at (360) 902-6088 for more information on discrimination or for help filing a complaint.

Thank you for your efforts to help make this workplace safer. If you have any questions, please contact the Regional Compliance Manager at the above phone number.

Sincerely,



Eva Glosson
Industrial Hygienist 3

Enclosure: Citation and Notice

cc: Compliance Regional Firm File
Central File