

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EDWARD BANKS, *et al.*,

Plaintiffs-Petitioners,

v.

QUINCY BOOTH, in his official capacity
as Director of the District of Columbia
Department of Corrections, *et al.*,

Defendants-Respondents.

No. 1:20-cv-_____

**DECLARATION OF ARTHUR B. SPITZER
IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, Arthur B. Spitzer, declare as follows:

1. I am a member of the bar of this Court and one of the attorneys for the Plaintiffs in this matter.

2. I have been employed as the Legal Director (since 2018, the Co-Legal Director) of the American Civil Liberties Union of the District of Columbia (previously the American Civil Liberties Union of the National Capital Area) for 40 years as of Wednesday, and during that time I have been counsel in hundreds of lawsuits filed in this Court. Among them have been numerous class action lawsuits, including *Dellums v. Powell*, 566 F.2d 167 (D.C. Cir. 1977) (class action for damages on behalf of 1,200 falsely accused demonstrators); *Smith v. Montgomery County*, 573 F. Supp. 604 (D. Md. 1983), *appeal dismissed*, 740 F.2d 963 (4th Cir. 1984) (class action for damages on behalf of thousands of arrestees unlawfully strip-searched at detention center); *Green v. Dist. of Columbia*, 134 F.R.D. 1 (D.D.C. 1991) (class action for injunctive relief regarding health care, legal materials and educational opportunities for

prisoners); *LaShawn A. v. Barry*, 990 F.2d 1319 (D.C. Cir. 1993) (still-open class action for injunctive relief on behalf of children in D.C. foster care); *Lampkin v. District of Columbia*, 27 F.3d 605 (D.C. Cir. 1994) (class action to obtain school transportation for homeless children); *Barry v. Little*, 669 A.2d 115 (D.C. 1995) (class action challenging cutoff of welfare benefits); *Carr v. District of Columbia*, 587 F.3d 401 (D.C. Cir. 2009) (class action for damages arising out of mass arrest); *Wood v. Moss*, 572 U.S. 744 (2014) (class action for damages arising out of breakup of peaceful demonstration); *J.D. v. Azar*, 925 F.3d 1291 (D.C. Cir. 2019) (class action on behalf of unaccompanied minor immigrants denied access to abortions); *Almaqami v. Pompeo*, 933 F.3d 774 (D.C. Cir 2019) (suit on behalf of Diversity Visa lottery winners blocked by Executive Order from obtaining immigration visas) (class certification motion pending on remand).

3. One of my co-counsel in this action is Scott Michelman, who has been at the American Civil Liberties Union of the District of Columbia since 2016 and is now its Co-Legal Director. From 2011 to 2016, he was a Staff Attorney at Public Citizen Litigation Group, where class actions under Rule 23 was one of his major practice areas. He have represented class plaintiffs in a number of class action proceedings in the federal courts of appeals and at the U.S. Supreme Court, including victories as counsel of record in *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016) (holding that predominance inquiry could be satisfied by representative proof in wage-and-hour class action and that plaintiff class had been properly certified), and as lead counsel in *Roach v. T. L. Cannon Corp.*, 778 F. 3d 401 (2d Cir. 2015) (holding that individualized damages determinations alone cannot preclude class certification under the predominance inquiry and vacating the denial of class certification). He is also one of plaintiffs' counsel in *J.D. v. Azar*, and *Almaqami v. Pompeo*, *supra*.

4. I believe that Mr. Michelman and I, together with our experienced co-counsel at the D.C. Public Defender Service, will fairly and adequately represent the interests of the class proposed to be certified in this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, D.C. on March 30, 2020.

/s/ Arthur B. Spitzer

Arthur B. Spitzer