

# Exhibit D

**DECLARATION OF ANTONIO**

I, Antonio, declare as follows:

1. I am a plaintiff in this lawsuit. I write this declaration to explain the conditions inside the Noah's Ark beef processing plant in Hastings, Nebraska. The plant is not doing enough to protect its workers from COVID-19, and I am afraid that it continues to put workers, their families, and the rest of us in the surrounding community at risk.

2. I worked at the plant for almost two years, until this Fall. [REDACTED]

[REDACTED]. Since leaving the plant, I continue to be in touch with many friends and co-workers who remain at the plant.

3. From [REDACTED], I worked on the "kill floor." This is where cows are killed and prepared for storage. Once the cow is killed, the carcass is hung upside down from hooks in the ceiling, skinned, offal removed and washed, and the meat is prepared for the freezer. There is one long line along which all of this happens. My job was to [REDACTED]

4. From [REDACTED], I worked in the packaging area. [REDACTED]. The packaging area is where meat is put in boxes and sealed. The different cuts of meat are already wrapped in plastic as they come down a conveyor line. Workers along the line put the meat in the appropriate boxes, and then label, seal, and place the boxes in the freezer. My job was to [REDACTED]

5. Noah's Ark has refused to take many basic safety precautions to protect us from COVID-19. There was a major outbreak in April and May and many workers, including myself,

got sick. During this outbreak, the National Guard tested workers at the plant for a short time. After the outbreak, the plant made some minor changes but I worry that they are not enough to keep workers safe.

6. The company does not allow workers to maintain physical distance in the common areas and processing floors.

7. Throughout my time at Noah's Ark, and for the entire pandemic, the cafeteria got very crowded during the lunch break. Some days, each part of the plant would eat separately (kill floor, fabrication, and packaging). But several days a week, everyone would eat at the same time. This happened when a piece of machinery broke or stalled on one of the processing floors. On those days, everyone on that floor would be given an early lunch break that overlapped with another group's break.

8. There are about fourteen tables in the cafeteria. Each table seats eight people. But I often saw ten or twelve people squeeze into a table because there weren't enough seats for everyone. People would sit so close together that their arms and legs would touch. Some people would eat while standing. Others would eat in the hallways, locker rooms, or their cars. I sometimes ate in the hallway because the cafeteria was so packed, but even in the hallway, people would crowd together on a bench.

9. Often, the cafeteria would not be cleaned between lunch shifts. I have noticed food stains on the tables, chairs, and floor. I also saw cockroaches on the walls.

10. The plant placed nylon barriers on the tables in the cafeteria. Each table had 8 barriers. However, these barriers were of bad quality and broke soon after they were put out. I have heard that recently the plant replaced them.

11. I complained many times to management and the nurse about the crowds in the cafeteria, the broken nylon barriers, and the lack of cleanliness between shifts. They never addressed my concerns. This crowding has continued throughout the pandemic.

12. There is also inadequate distancing on the processing floors. The majority of the processing area does not have any barriers separating workers. Most people stand about one foot apart from each other while working their shift.

13. There are no barriers between workstations on the kill floor. The majority of workers on the kill floor stand within one foot of each other. Where I worked, we were so close together that often our arms touched as we worked. The plant did not take any measures to space us out.

14. In the packaging area, there is one long production line with no barriers separating workers. Workers stand one foot apart on both sides of the line. I worked with three other people [REDACTED]. We worked elbow to elbow. The plant did not do anything to create more distance between workers.

15. The only processing area where the plant installed any barriers is the fabrication area. I know this because I would walk through this area. Fabrication is where meat is cut into pieces and readied for packaging. There is one conveyor belt that sends the meat down the line and about thirteen tables along the line where workers cut the meat. The plant only put barriers on a few of the tables. And these barriers broke or ripped after about two weeks. Just like in other parts of the plant, workers stand about one foot apart at the tables.

16. I have made several suggestions to management about steps the plant could take to space out its employees. For example, the plant can stagger lunch breaks so that not everyone is crowding into the cafeteria at the same time. In the processing areas, it could leave some

workstations empty, or add a shift but reduce the number of people working each shift. Each time, management has refused to even try to space out workers in the cafeteria or on the processing lines.

17. Masks present another big problem. Everyone gets one mask at the start of their shift. Because of the nature of our work, the mask gets dirty pretty quickly. When I worked on the kill floor, during my ten-hour shift my mask would get dirty from blood, fat, and feces from cutting the cow open. The nurse had replacement masks, but we had to go to the clinic to get them. The plant does not let us stop working in the middle of the shift to get a mask, so often people would just work with dirty masks until break time. Because the dirty masks were uncomfortable, many people would wear them below their nose or mouth.

18. I am also concerned that people with COVID-19 symptoms were allowed to keep working. If someone has a fever, they are given a choice to keep working or go home. Sometimes people are even forced to keep working. When I got sick in May, I told my manager that I was not feeling well and had a headache and body aches. I requested to go home but he told me I had to stay and finish my shift. The next day, I developed a fever and ended up taking about five weeks off. During that period, my manager called me and pressured me to return to work. I refused.

19. After the first outbreak in April and May, Noah's Ark hired a nurse. People line up when they report for their shift and she checks everyone's temperatures. If someone has a fever, she pulls them out of line and alerts their manager. The nurse does not work on Sundays, so on that day there is no temperature check. I know this because I worked on Sundays and the nurse was never there. I even complained about this and suggested that the plant hire someone to do temperature checks on Sundays. But they did not hire anyone.

20. In early June of this year, I had a fever and the nurse pulled me out of line and notified my manager. My manager said that I could choose to stay and continue working, or go home. I felt that he was trying to convince me to stay, because he said that it might just be a regular fever and not COVID-related. He also mentioned that the plant was short staffed. I decided to go home because I was feeling very ill.

21. Some people have kept working even when the plant knew they were ill. I know this because, during the temperature check in early June, four other workers also had a fever. They were pulled out of line and their manager gave them the choice to work or go home. Two of them stayed and kept working, despite their fever.

22. If someone tests positive for COVID-19 or is showing symptoms, the plant does not notify other workers who work near them on the processing line. In May, one of the workers who works in my section of the kill floor got very sick and was hospitalized with COVID-19. The plant did not notify me or another worker who works in the same section. When I had a fever in early June, the plant did not notify my coworkers.

23. The plant did not provide us with any written or verbal sick leave policy. The general sense among workers is that, if they take time off due to COVID-19, they will not get paid. They think this because many of us have been forced to work when we were sick and have not been paid if we took time off. My own experience confirms this. When I got sick in May and was out for five weeks, the plant refused to pay me at first. I had to fight with Human Resources (HR) to get paid, and even then, they only paid me for two weeks and not the entire time I was out. They also paid me at a lower rate, at \$12 per hour instead of \$14 per hour. There were signs on the wall saying that people should stay home if they are sick, but the signs did not explain any

paid sick leave, and everyone's experience was that the plant would not pay them and might fire them if they stayed home sick.

24. I know coworkers who were sick with COVID-19 in June or July and still haven't been paid for their time off. The HR representative has told me that whether someone gets paid for sick leave, and at what rate, is determined by corporate headquarters. There is no written policy. The plant has not posted anywhere that people can get paid sick leave.

25. There is no COVID-19 testing at the plant, and the plant does not help us find testing or pay for it. When I had a fever in early June and the nurse pulled me out of line, she did not refer me for testing. When I was sick in May, I had to pay for my COVID-19 test myself. Noah's Ark did not require that I get a test, nor did they help me find or pay for one. Most of the workers cannot afford a COVID-19 test.

26. I called the OSHA Area Office in Omaha twice to complain about conditions at the plant. The first time I called in August, no one answered. The second time I called in September, I spoke with a representative and explained my concerns about workplace safety at Noah's Ark. Among other things, I told him that the plant was failing to take basic COVID-19 precautions by crowding the cafeteria during lunch, not providing clean face masks regularly, and not doing temperature checks on Sunday. The representative told me to file a complaint online and did not offer any assistance or follow up.

27. OSHA conducted an inspection of the plant in early September. However, the inspector only went to a few designated areas that the management took him to. For example, the inspector did not see the cafeteria or the bathrooms. During the week that the inspection was to take place, the plant management told workers that they cannot eat their lunch in the hallways

and staggered the lunch breaks. Each processing floor ate during a different one-hour period to prevent crowding in the cafeteria. But after the inspection, the plant did not make any changes.

28. Since I left Noah's Ark, I have remained in touch with several co-workers who still work at the plant. All of them are very scared about working without proper protections against another outbreak. But they are too scared to speak up for file any kind of complaint, because they worry they will be fired if they do so.

29. Most recently, I spoke with a coworker the weekend after Thanksgiving. He told me that, while the plant has made some minor changes, like replacing broken barriers in the cafeteria and adding a few more barriers on the processing lines, the biggest problems remain the same. There is no testing. The plant has not posted or communicated any sick leave policies and people continue to report for work while sick because they are afraid they will be fired if they don't. Workers still have difficulty getting soiled masks replaced. And there continues to be no distancing at all. The plant has not spaced out workers on the processing lines or staggered work shifts or lunch breaks. The plant has added more tables to the cafeteria so it gets even more crowded than before. The plant put some lunch tables outside, but there is no tent or heating so no one uses them because it's too cold.

30. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: December 2, 2020

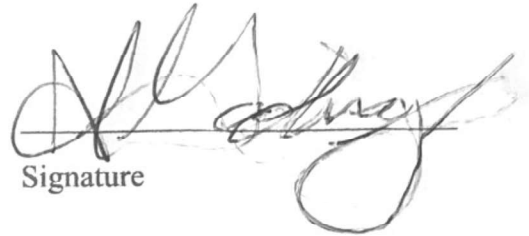
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Signature



**CERTIFICATE OF TRANSLATION**

I, Rose Godinez, certify that I am competent in both Spanish and English. I translated the attached Declaration of Antonio from English into Spanish and provided a written copy to [REDACTED] for him to review and sign. I certify that the Spanish translation was a complete and accurate translation thereof.

Dated: December 2, 2020

  
Signature