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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Jonah Gold,

Plaintiff,

v.

BRIAN SANDOVAL, in his official capacity as
PRESIDENT OF THE UNIVERSITY OF
NEVADA, RENO; MELODY ROSE, in her
official capacity as Chancellor of BOARD OF
REGENTS OF THE NEVADA SYSTEM OF
HIGHER EDUCATION, a political subdivision
of the State of Nevada; LISA SHERYCH, in her
official capacity as Administrator of
DEPARTMENT OF HEALTH AN HUMAN
SERVICES NEVADA DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH; STEVE
SISOLAK, in his official capacity as
GOVERNOR OF THE STATE OF NEVADA;
and John and Jane Does 1-100,

Defendants.

Case Number:

**Complaint for Declaratory and
Injunctive Relief**

JURY TRIAL REQUESTED

1 Plaintiff Jonah Gold brings this action to challenge the Covid-19 vaccine mandate upon
2 students at the University of Nevada, Reno. Plaintiff alleges as follows:

3 INTRODUCTION

4 **1.** The entire worldwide scientific consensus is that Covid-19 vaccination does not
5 prevent infection or transmission of the coronavirus. Therefore, as a matter of law, Covid-19
6 vaccination cannot be considered a public health measure, lest public health be redefined to
7 support an unprecedented power grab. The fact that the CDC literally changed the definition of
8 the word “vaccine” in August 2021 to attempt to include these injections under a “vaccination”
9 branding, certainly to manipulate public sentiment, and likely to also avoid the proper standard
10 of judicial review, does not permit the judiciary to defer to the State with anything less than
11 strict scrutiny. Indeed, the *Jacobson* Court limited its holding to vaccine mandates that were
12 “adapted to prevent the spread of contagious diseases[.]” *Jacobson v. Massachusetts*, 197 U.S.
13 11, 35 (1905).

14 **2.** All credible scientific experts and sources have found that these injections do
15 not in fact prevent the transmission or acquisition of the coronavirus. Thus the injections are a
16 personal health measure only.¹ A partial list of prominent scientists and persons who have
17 stated this publicly include: the CDC Director Dr. Walensky, the Director of the NIAID Dr.
18 Fauci, Harvard Professor Dr. Haseltine, Harvard Professor of Medicine Dr. Kulldorff,
19 University of Oxford Professor of Infectious Disease Epidemiology Dr. Gupta, Professor of
20 Medicine at Stanford University Medical School Dr. Bhattacharya, the Chief Medical Officer
21 of Moderna Dr. Zaks, the Chief Scientist of the WHO Dr. Swaminathan, the Prime Minister of

22 _____
23 ¹ See e.g., Moderna (November 2021). *Program Patents*.
<https://www.modernatx.com/patents>.

24 United States Securities and Exchange Commission (August 6, 2020). *Moderna Form*
25 *10Q*. <https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm>.

26 Nakagami H. (September 2021). *Development of COVID-19 vaccines utilizing gene*
27 *therapy technology*. *Int Immunol*. 2021 Sep 25;33(10):521-527.
<https://pubmed.ncbi.nlm.nih.gov/33772572/>.

28 FDA (October 2021). *Comirnaty*. Vaccines, Blood, and Biologics.
<https://www.fda.gov/vaccines-blood-biologics/comirnaty>.

1 the United Kingdom the Honorable Boris Johnson, the President of the United States Joe
 2 Biden, the Leader of the Oxford Vaccine Team Professor Sir Andrew Pollard, EU research
 3 scientists Drs. Bhakdi, Hockertz, Palmer, Wodarg, Surgeon General State of Florida Dr.
 4 Ladapo, Public Health England, CDC, Nobel Prize Winner in Medicine Dr. Luc Montagnier
 5 and prominent physician-scientist-Professor Dr. McCullough. All these, and many others, have
 6 stated the injections do not stop transmission.

7 **3.** An enormous amount of independent data proves that Covid-19 vaccination is
 8 actively harming the public health generally and some individuals specifically.

- 9 a. The vaccinated carry a very high viral load.² Vaccinated people are more likely
 10 to spread coronavirus.³ The vaccinated acquire and transmit the virus as readily
 11 – or more readily – than the unvaccinated.⁴
- 12 b. Vaccinated people had extremely brief and transient immunity for only a
 13 handful of months from the original variant. According to the CDC Director,
 14 they have no protection whatsoever from acquiring the only variant of concern,
 15 the Delta variant.⁵

16
 17 ² Chau, N.V.V., et al. (October 11, 2021). *Transmission of SARS-CoV-2 Delta Variant*
 18 *Among Vaccinated Healthcare Workers, Vietnam*, Preprints with The Lancet.
<https://ssrn.com/abstract=3897733>.

19 ³ See e.g., Delaney, P (October 6, 2021). *Brief video illustrates dramatic spikes in*
 20 *COVID-19 deaths after jabs in 40 nations*. LifeSite News.
 21 <https://www.lifesitenews.com/news/brief-video-illustrates-dramatic-spikes-in-covid-19-deaths-following-jabs-in-40-nations/>.

22 The Expose (November 2, 2021). *Pandemic of the Vaccinated – Worldwide data on*
 23 *188 countries proves the highest Covid-19 case rates are in the most vaccinated countries*.
<https://theexpose.uk/2021/11/02/worldwide-data-proves-the-highest-covid-19-case-rates-are-in-the-most-vaccinated-countries/>.

24 ⁴ Subramanian SV, et al. (September 30, 2021). *Increases in COVID-19 are unrelated to*
 25 *levels of vaccination across 68 countries and 2947 counties in the United States*. *Eur J*
 26 *Epidemiol.* 2021;1-4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8481107/>.

27 ⁵ Holcombe, M, et al. (August 6, 2021). *Fully Vaccinated People Who Get a CoVID-19*
 28 *Breakthrough Infection Transmit the Virus, CDC Chief Says*. CNN Health.
<https://www.cnn.com/2021/08/05/health/us-coronavirus-thursday/index.html>.

- 1 c. There is much data to show that vaccinated people are more likely to expose the
2 community to variants.^{6,7} McCullough Decl.⁸ And vaccinated people become
3 dependent on vaccine boosters for life. Parks Decl.
- 4 d. Unvaccinated Covid-19 Recovered persons acquire lifelong natural immunity
5 that is the most robust, most complete, and most durable.
- 6 e. It is counterproductive and risky to vaccinate people who are Covid-19
7 Recovered because they are placed at greater risk of harm in the short term and
8 in the long term. Parks Decl.
- 9 f. National data from the United States government databases (VAERS and VSD)
10 show vaccinated people are suffering permanent disability and death from
11 Covid-19 vaccination in staggering and unprecedented numbers. Rose Decl.
- 12 g. Countries with the lowest vaccination rates experience the lowest number of
13 coronavirus cases. Counties with lower vaccination numbers have far fewer
14 cases than areas with higher vaccination rates.⁹
- 15 h. The current worldwide trend (i.e., Japan, Sweden, Finland, Denmark, Norway,
16 India, and most countries on the African continent) is to stop aggressively
17 pushing vaccination and start respecting natural immunity and proven cures like
18 Ivermectin and HCQ.¹⁰

19 ⁶ Keehner, J, et al. (September 1, 2021). *Resurgence of SARS-CoV-2 Infection in a*
20 *Highly Vaccinated Health System Workforce (letter to the editor)*. N Engl J Med 2021;
21 385:1330-1332. <https://www.nejm.org/doi/full/10.1056/NEJMc2112981>.

22 ⁷ See footnote 2.

23 ⁸ Expert declarations referenced in this Complaint (styled “Name Decl.”) refer to the
24 concurrently filed (November 2021) declarations of Plaintiff’s experts in support of
25 declaratory and injunctive relief, which declarations are hereby incorporated by reference.

26 ⁹ See footnote 4.

27 ¹⁰ See e.g., Turner, H. (October 27, 2021). *Japan drops vax rollout, goes to Ivermectin,*
28 *ENDS COVID almost overnight*. News Desk.
<https://haltunnerradioshow.com/index.php/en/news-page/world/japan-drops-vax-rollout-goes-to-ivermectin-ends-covid-almost-overnight>.

1 **4.** Plaintiff is an 18-year-old student enrolled with the University of Nevada, Reno
2 (“UNR”), which recently mandated Covid-19 vaccination upon him (even though Plaintiff has
3 already recovered swiftly from Covid-19 with natural immunity), and upon all other students
4 attending UNR because of an ill-prepared emergency regulation passed by Nevada’s Governor
5 and Department of Public Health, who are named as Defendants in this lawsuit together with
6 the college.

7 **5.** Defendants do not possess any legal authority to require that Plaintiff be
8 injected with this biotechnology because the injections are personal treatment only.

9 **6.** Covid-19 vaccination mandates are an unconstitutional intrusion on natural
10 immunity and bodily integrity. As a Covid-19 Recovered healthy young male college student,
11 Plaintiff is indisputably at substantially heightened risk from the injection in two ways. The
12 first risk is that young males are at very high risk of developing life-threatening myocarditis or
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20 Public officials are declaring openly that America is suffering because of vaccine
21 mandates. See e.g., Los Angeles County Sherriff’s Department (November 2, 2021). *Imminent
22 Threat to Public Safety Due to Vaccine Mandates*. Press Conference.
23 <https://lasd.org/imminent-threat-to-public-safety-due-to-vaccine-mandates/>.

24 Note also the following excerpt from Oklahoma’s Governor and Attorney General in
25 their Complaint *Oklahoma v. Biden* (November 4, 2021), “Here are some related and non-
26 exhaustive considerations that compel the conclusion that this [vaccine] mandate is arbitrary
27 and capricious:... Defendants’ failure to exempt those who have a natural immunity to
28 COVID-19.... Oklahoma seeks to protect its residents’ health and well-being from the vaccine
mandate; consequently, the State has standing to bring this cause of action in federal court....
Being vaccinated does not stop anyone from being a carrier of COVID-19.... This mandate
forcibly intrudes into the physical person of the federal contractor’s employee; it penetrates not
just into the individual’s skin but into her bloodstream—and becomes a component of her
body. See *Skinner*, 489 U.S. at 616; *Schmerber*, 384 U.S. at 767–68. This involves the
person’s privacy, bodily integrity, and dignity. Society certainly recognizes the right to avoid
such a compelled intrusion as reasonable.”

1 pericarditis from the injection.^{11, 12, 13, 14, 15} The second risk is that all Covid-19 Recovered
 2 persons are at heightened risk from the injection compared to those without prior infection, as
 3 explained with scientific citations in detail herein.¹⁶

4 **7.** Plaintiff seeks the issuance of an order to show cause, shifting the burden to
 5 Defendants to prove that Defendants' unscientific decision to mandate an experimental
 6 personal health genetic intervention, and to reject natural immunity, meets a compelling State
 7 interest, and that it is narrowly tailored to avoid unnecessary infringement upon Plaintiff's
 8 constitutional rights.

9 **8.** Plaintiff further seeks declaratory relief that Defendants' unscientific decision
 10 imminently threatens the life of Plaintiff, and others, and unlawfully segregates (via masking,
 11 testing, and threat of quarantine) Plaintiff based on his Covid-19 Recovered medical condition
 12 and natural mRNA genetic status, which is an unlawful infringement by Defendants upon
 13

14 ¹¹ Wallace, M., et al. (June 23, 2021). *COVID-19 mRNA vaccines in adolescents and y*
 15 *oung adults: Benefit-risk discussion*. CDC.
 16 <https://www.cdc.gov/vaccines/acip/meetings/downloads/slides-2021-06/05-COVID-Wallace-508.pdf>

17 ¹² Diaz, GA, et al. (August 4, 2021). *Myocarditis and Pericarditis After Vaccination for*
 18 *COVID-19 (Research Letter)*. JAMA. 2021;326(12):1210-1212.
 19 <https://jamanetwork.com/journals/jama/fullarticle/2782900>.

20 ¹³ Arevalos, V, et al. (October 5, 2021). *Acute and Chronic Effects of COVID-19 on the*
 21 *Cardiovascular System*. J. Cardiovasc. Dev. Dis. 2021, 8(10), 128.
 22 https://www.mdpi.com/2308-3425/8/10/128?type=check_update&version=2

23 ¹⁴ Hoeg, TB, et al. (August 30, 2021). *SARS-CoV-2 mRNA Vaccination-Associated*
 24 *Myocarditis in Children Ages 12-17: A Stratified National Database Analysis*.
 25 <https://www.medrxiv.org/content/10.1101/2021.08.30.21262866v1.full.pdf>.

26 ¹⁵ McLernon, LM (August 10, 2021). *Studies look at clotting, myocarditis tied to*
 27 *COVID-19 vaccines*. CIDRAP News.
 28 <https://www.cidrap.umn.edu/news-perspective/2021/08/studies-look-clotting-myocarditis-tied-covid-19-vaccines>.

¹⁶ Raw, R et al (2021). *Previous COVID-19 infection, but not Long-COVID, is associated*
 with increased adverse events following BNT162b2/Pfizer vaccination. J Infect 2021 Sep;
 83(3): 381-412. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8164507/>.

1 him by UNR’s academic advisor.

2 **13.** Plaintiff pleads for relief, to be freed from Defendants’ tactics of coercion and
3 discrimination amounting to duress as a consequence of his choice *not* to submit to the myriad
4 risks of Covid-19 vaccine injury that Defendants are unable to quantify.

5 **14.** Defendant Brian Sandoval (“Sandoval”) is the President of University of
6 Nevada, Reno. Sandoval implements the Covid-19 vaccine mandate of the UNR, including
7 also Sandoval’s preferred coercion policies that he targets to the UNR community. He is being
8 sued in his official capacity.

9 **15.** Defendant Melody Rose is the Chancellor of Board of Regents of the Nevada
10 System of Higher Education (NSHE), a political subdivision of the State of Nevada, operating
11 as a public university system in Nevada with multiple campuses (including UNR) and more
12 than 100,000 students. NSHE is a state-created, state-financed, and state-run education system,
13 and, as such, it is subject to the Fourteenth Amendment of the United States Constitution.

14 **16.** Defendants Sandoval and NSHE are referred to collectively herein as “College
15 Party Defendants”.

16 **17.** Defendant Lisa Sherych is the Administrator of Department of Health and
17 Human Services Nevada Division of Public and Behavioral Health (DPBH).

18 **18.** Defendant Steve Sisolak (“Sisolak”) is the Governor of the State of Nevada.

19 **19.** Defendants DPBH and Sisolak are referred to collectively herein as
20 “Administrative Defendants”.

21 **20.** Defendants John and Jane Does 1-100 are, as yet, unknown persons.

22 **DEFENDANTS HARM PLAINTIFF**

23 **21.** Defendants’ vaccination mandate, as referenced herein, constitutes state action
24 taken under color of law.

25 **22.** Defendants’ deference to false statements of there being a public health benefit,
26 is unsupported by science and national data, and subordinate to constitutional rights.

27 **23.** Plaintiff has experienced concrete and particularized injuries-in-fact that are
28

1 both actual and imminent, including, but not limited to the following: (a) Defendants are
2 unconstitutionally coercing and segregating Plaintiff without scientific justification because
3 Plaintiff is exercising constitutional, and statutory rights to decline an involuntary injection;
4 (b) Defendants are engaged in unmitigated coercion to subvert Plaintiff's absolute right to
5 refuse to participate in an unnecessary worldwide medical experiment and to be free of
6 discrimination for exercising this right; and (c) Plaintiff experiences certain and palpable threat
7 of mandatory vaccination as Defendants push unscientific fear upon Plaintiff.

8 **24.** Defendants' unscientific discrimination against unvaccinated Covid-19
9 Recovered students with superior immunity foreseeably places such students, including
10 Plaintiff, under duress with respect to his exercise of informed refusal of Covid-19
11 vaccination.

12 **25.** The discriminatory techniques create an educational environment that is
13 separate and unequal based on medical condition and genetic status. Among the duress
14 techniques utilized by Defendant College Parties are the following examples:

- 15 a. Covid-19 vaccinated students may breathe freely outdoors, but unvaccinated Covid-
16 19 Recovered students with superior immunity can only breathe as the Defendant
17 College Parties authorize.
- 18 b. Covid-19 vaccinated students are presumed healthy, but unvaccinated Covid-19
19 Recovered students with *superior* immunity are presumed unhealthy, and irrationally
20 humiliated and segregated and submit to EUA tests intruding on student medical
21 privacy, in order to congregate with others in the dorms.
- 22 c. Distributing gifts, prizes, and incentives to Covid-19 vaccinated persons, but
23 isolating unvaccinated Covid-19 Recovered students with superior immunity.

24 **26.** These policies cause direct and unnecessary disruption of Plaintiff's doctor-
25 patient relationships, bodily integrity, education, and livelihood.

26 **UNR COVID-19 VACCINE MANDATE**

27 **27.** Defendant Sandoval regularly publishes the Covid-19 policies that he enforces
28

1 at UNR. See e.g., <https://www.unr.edu/coronavirus>, which states the following policies:

2 **“All undergraduate and graduate students are required to provide**
3 **documentation of a completed vaccination series against COVID-19**
4 **before enrolling for the Spring 2022 semester.** This means students must
5 receive both doses of the Pfizer-BioNTech or Moderna vaccine, or the single
6 dose of Johnson & Johnson (Janssen) COVID-19 vaccine before they can
7 enroll when enrollment times begin on November 1.”

8 ...
9 **“Students, employees, and members of the public, who have not been fully**
10 **vaccinated against COVID-19, are also still required to wear face**
11 **coverings outdoors while on campus,** irrespective of whether other
12 individuals are present.”

13 ...
14 **“Contact tracing for positive COVID-19 cases will continue...”**

15 ...
16 **“What if I’ve had COVID-19 and carry antibodies? Do I still have to get**
17 **vaccinated? Yes, according to the Centers for Disease Control and Prevention,**
18 **a person should be vaccinated regardless of whether they have already had**
19 **COVID-19 because of the following:**

- 20 • “Research has not yet shown how long you are protected from getting
21 COVID-19 again after you recover from COVID-19
- 22 • “Vaccination helps protect you even if you’ve already had COVID-
23 19”

24 ...
25 **“If all courses are offered 100% web-based, the student may still enroll into those**
26 **classes. Students enrolled into 100% web-based courses who have not provided**
27 **immunization documentation will need to complete enrollment requests for manual**
28 **enrollment into each class.”**

See also specific to dormitories:

19 **“For a guest to check-in, they must present an ID at the Front Desk or to the**
20 **Residential Life Staff Member. If the front desk is closed, the resident must**
21 **call the Resident Assistant on Duty to check-in their guest. Guests must follow**
22 **all established health guidelines as suggested by the University, CDC, Washoe**
23 **County Public Health Department, NSHE, and the State of Nevada. This**
24 **includes, but is not limited to, proof of COVID-19 vaccination or proof of a**
25 **negative COVID-19 test result, administered within 72 hours prior to entering**
26 **the building. The test results must include the date administered and**
27 **identifiable information.”** [https://www.unr.edu/housing/resources/student-](https://www.unr.edu/housing/resources/student-handbook/residence-hall-standards-of-conduct)
28 [handbook/residence-hall-standards-of-conduct](https://www.unr.edu/housing/resources/student-handbook/residence-hall-standards-of-conduct)

28 **28.** Such policies and their enforcement constitute a pattern and practice of
Defendant College Parties discriminating against unvaccinated persons who are Covid-19
Recovered compared to persons who are Covid-19 vaccinated.

STATEWIDE POLICIES

1
2 **29.** Defendant NSHE regularly publishes the Covid-19 policies enforced
3 throughout its college system including UNR. See e.g., [https://nshe.nevada.edu/covid-19-](https://nshe.nevada.edu/covid-19-information-center/)
4 [information-center/](https://nshe.nevada.edu/covid-19-information-center/), which declares mandates for vaccines, testing, and masking. Certain of
5 these mandates are derived from the Administrative Defendants, such that the Defendant
6 College Parties and the Administrative Defendants cooperate in their violations of
7 constitutional rights, as alleged herein.

8 **30.** On August 20, 2021, Defendant DPBH adopted “an emergency regulation
9 amending the Nevada Administrative Code (NAC) 441A.755 to require individuals enrolling
10 in any Nevada university, community college, or state college, beginning November 1, 2021,
11 to provide proof of a completed COVID-19 vaccination series to the educational institution.”
12 See [https://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2021_docs/2021-08-](https://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2021_docs/2021-08-20_BOH_Regulation.pdf)
13 [20_BOH_Regulation.pdf](https://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2021_docs/2021-08-20_BOH_Regulation.pdf).

14 **31.** Defendant Sisolak “signed emergency regulations that require state universities,
15 colleges and community colleges to implement a COVID-19 vaccine requirement for
16 enrollment after Nov. 1, 2021.”
17 [https://gov.nv.gov/News/Press/2021/Governor_Sisolak_signs_emergency_regulation_related_t](https://gov.nv.gov/News/Press/2021/Governor_Sisolak_signs_emergency_regulation_related_to_COVID-19_vaccine/)
18 [o_COVID-19_vaccine/](https://gov.nv.gov/News/Press/2021/Governor_Sisolak_signs_emergency_regulation_related_to_COVID-19_vaccine/).

19 **32.** Defendants’ novel theories¹⁷ for the coronavirus and its experimental vaccine
20 are based on conjecture that fails strict scrutiny when applied as a healthcare mandate.
21 Defendants’ pattern and practice of unsubstantiated conjecture has already been authoritatively
22 rebutted by overwhelming scientific evidence, and therefore health authorities will (or *should*)
23 correct their guidance imminently.¹⁸

24
25 ¹⁷ See e.g., Immunize Nevada (November 4, 2021). *Covid-19 FAQ*.
<https://www.nvcovidfighter.org/covid-19-faq>.

26
27 ¹⁸ Siri, A. (October 21, 2021). *Prelitigation communications with CDC to lift restrictions*
on the naturally immune. [https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-](https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf)
28 [CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf](https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf).

1 **DEFENDANTS IGNORE NATURAL IMMUNITY AND FAIL TO IMPLEMENT**
 2 **PRESCREENING**

3 **33.** Those individuals who have had, and, knowingly or unknowingly, recovered
 4 from the SARS-CoV-2 virus, or those individuals who currently have the virus, are herein
 5 collectively referred to as the “Covid-19 Recovered”. The medical trials for the Pfizer¹⁹,
 6 Moderna²⁰, and Johnson & Johnson²¹ Covid-19 vaccines excluded the Covid-19 Recovered
 7 and many top publishing physicians²² are proactively prescreening patients to protect them
 8 from unnecessary risk of injection if they are Covid-19 Recovered. See, e.g., from Pfizer trial:

9 “5.2. Exclusion Criteria Participants are excluded from the study if
 10 any of the following criteria apply: ... Previous clinical (based on
 11 COVID-19 symptoms/signs alone, if a SARS-CoV-2 NAAT result
 12 was not available) or microbiological (based on COVID-19
 13 symptoms/signs and a positive SARS-CoV-2 NAAT result)
 14 diagnosis of COVID-19.”

15 **34.** Emphasizing the importance of shifting the proof of safety burden to the State,
 16 emerging data establishes that vaccinating the Covid-19 Recovered causes an immediately
 17
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19 ¹⁹ <https://www.fda.gov/media/144412/download>
 20 https://cdn.pfizer.com/pfizercom/2020-11/C4591001_Clinical_Protocol_Nov2020.pdf
 21 [https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/comirnaty-and-pfizer-biontech-covid-19-vaccine)
 22 [covid-19/comirnaty-and-pfizer-biontech-covid-19-vaccine](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/comirnaty-and-pfizer-biontech-covid-19-vaccine)

23 ²⁰ <https://www.fda.gov/media/144434/download>
 24 <https://www.cdc.gov/vaccines/acip/recs/grade/covid-19-moderna-vaccine.html>
 25 [https://www.modernatx.com/sites/default/files/content_documents/Final%20mRNA-](https://www.modernatx.com/sites/default/files/content_documents/Final%20mRNA-1273-P301%20Protocol%20Amendment%206%20-%2023Dec2020.pdf)
 26 [1273-P301%20Protocol%20Amendment%206%20-%2023Dec2020.pdf](https://www.modernatx.com/sites/default/files/content_documents/Final%20mRNA-1273-P301%20Protocol%20Amendment%206%20-%2023Dec2020.pdf)

27 ²¹ <https://www.fda.gov/media/146217/download>

28 ²² <https://pubmed.ncbi.nlm.nih.gov/?term=Hooman+Noorchashm>
<https://pubmed.ncbi.nlm.nih.gov/?term=+McCullough+PA>
 Siri, A. (October 21, 2021). *Prelitigation communications with CDC to lift restrictions on the naturally immune*. <https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf>.

1 higher death rate worldwide for no benefit²³, as there is a much stronger (10-20x)²⁴ antibody
 2 response to the Covid-19 vaccine, overwhelming the immune system, if a person has
 3 previously had the virus. Scientists and clinicians observing patients in real time are reporting
 4 the same phenomenon all over the world, as this representative example highlights: “People
 5 with prior COVID-19 illness appear to experience significantly increased incidence and
 6 severity of side effects after receiving the COVID-19 vaccine”.²⁵ Some of these increased side
 7 effects include: blood clots, hemorrhage, thrombocytopenia, heart attack, and strokes;
 8 reproductive issues, including menstrual irregularities, reduced fertility, miscarriages;
 9 transmission of spike protein from vaccinated individuals, such as through breast milk and
 10 associated risk in neonates and infants; neurological disorders, including Guillain-Barré
 11 syndrome, Bell’s Palsy, transverse myelitis and unspecified neurologic damage.

12 **35.** Despite the foregoing, Defendants issued an unscientific statewide mandate of
 13 Covid-19 vaccination without any accommodation for prescreening. Defendants’ dogmatic
 14 reliance upon ‘CDC recommendations’ is not based on real time data, or on actual numbers.
 15 This explains why scientists and clinicians caring for real patients in real time are achieving
 16 superior health outcomes by ignoring CDC recommendations in favor of standard medical
 17 practice which is to acknowledge the robustness of natural immunity. An example of this came
 18 recently from Dr. Marty Makary, a professor at the Bloomberg School of Public Health, who

19 _____
 20 ²³ Our World in Data (2021). *Coronavirus: Data explorer*.

<https://ourworldindata.org/explorers/coronavirus-data-explorer> Bruno, R et al (2021).

21 Bruno, R, et al. (May 24, 2021). *SARS-CoV-2 mass vaccination: Urgent questions on*
 22 *vaccine safety that demand answers from international health agencies, regulatory authorities,*
 23 *governments and vaccine developers*. Authorea.

<https://authorea.com/doi/full/10.22541/au.162136772.22862058>

24 Goldberg, Y (2021). *Protection of previous SARS-CoV-2 infection is similar to that of*
 25 *BNT162b2 vaccine protection: A three-month nationwide experience from Israel*. MedRxiv.

<https://www.medrxiv.org/content/10.1101/2021.04.20.21255670v1>.

26 ²⁴ See footnote 16.

27 ²⁵ Mathioudakis, A, et al. (2021). *Self-Reported Real-World Safety and Reactogenicity of*
 28 *COVID-19 Vaccines: A Vaccine Recipient Survey*. *Life* (Basel). 2021 Mar 17; 11(3):249.

<https://pubmed.ncbi.nlm.nih.gov/33803014/>.

1 stated publicly that because “half the country” likely already have natural lifelong immunity to
 2 Covid-19, “I never thought I’d say this, but please ignore the CDC guidance.”²⁶

3 **36.** Defendants’ position is novel and radical. Universal principles of virology and
 4 immunology²⁷ hold that immunity from natural infection is the best, most robust, and longest
 5 lasting way protection to manage epidemics such as Covid-19. Defendants’ statements to the
 6 contrary are categorically false, and courts must not defer to false statements simply because
 7 some government scientists argue for them, but, rather, courts must apply strict scrutiny. See
 8 e.g., *Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63, 71 (2020) (Justice Gorsuch concurring,
 9 “Why have some mistaken this Court’s modest decision in *Jacobson* for a towering authority
 10 that overshadows the Constitution during a pandemic? In the end, I can only surmise that
 11 much of the answer lies in a particular judicial impulse to stay out of the way in times of crisis.
 12 But if that impulse may be understandable or even admirable in other circumstances, we may
 13 not shelter in place when the Constitution is under attack. Things never go well when we do.”)

14 **37.** The evidence supports that natural immunity with SARS-CoV-2 in the
 15 unvaccinated will be complete and lifelong.²⁸ Urso Decl., Yeadon Decl. Indeed, The Cleveland
 16 Clinic found the following: “Individuals who have had SARS-CoV-2 infection are unlikely to
 17 benefit from COVID-19 vaccination.”²⁹ Defendants can cite **NO** statistically significant

18 _____
 19 ²⁶ Shiver, P (May 27, 2021). *John Hopkins professor says ‘ignore the CDC’ – ‘natural*
 20 *immunity works’*. Blaze Media. [https://www.theblaze.com/news/johns-hopkins-professor-](https://www.theblaze.com/news/johns-hopkins-professor-ignore-cdc-natural-immunity-works)
 21 [ignore-cdc-natural-immunity-works](https://www.theblaze.com/news/johns-hopkins-professor-ignore-cdc-natural-immunity-works) (“Natural immunity works... We've got to start respecting
 22 individuals who choose not to get the vaccine, instead of demonizing them. There is more data
 23 on natural immunity than there is on vaccinated immunity, because natural immunity has been
 24 around longer.”)

23 ²⁷ Delves, P, et al. (2017). *Roitt’s Essential Immunology, 13th Edition*. Wiley-Blackwell.
 24 [https://www.wiley.com/en-us/Roitt%27s+Essential+Immunology%2C+13th+Edition-p-](https://www.wiley.com/en-us/Roitt%27s+Essential+Immunology%2C+13th+Edition-p-9781118415771)
 25 [9781118415771](https://www.wiley.com/en-us/Roitt%27s+Essential+Immunology%2C+13th+Edition-p-9781118415771).

25 ²⁸ Alexander, PE (October 17, 2021). *91 Research Studies Affirm Naturally Acquired*
 26 *Immunity to Covid-19: Documented, Linked, and Quoted*. Brownstone Institute.
 27 [https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-](https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-covid-19-documented-linked-and-quoted/)
 28 [covid-19-documented-linked-and-quoted/](https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-covid-19-documented-linked-and-quoted/).

27 ²⁹ Shrestha, N (June 19, 2021). *Necessity of COVID-19 vaccination in previously infected*
 28 *individuals*. MedRxiv. <https://www.medrxiv.org/content/10.1101/2021.06.01.21258176v3>.

1 evidence that Covid-19 Recovered persons are at any risk whatsoever of reinfection or
2 transmission, let alone greater risk than vaccinated persons.

3 **38.** There is **NO** evidence to support the argument that the Covid-19 Recovered
4 lose their immunity. In fact, there is substantial evidence suggesting it will be lifelong.^{30,31}
5 Such evidence includes: University of Washington scientists discovered that prior infection³²
6 with the original SARS-CoV-1³³ (which is approximately 78% identical to SARS-Cov-2)
7 conferred natural immunity that is robust against the current SARS-CoV-2 eighteen years
8 later;³⁴ *The Lancet* reporting: evidence that “...demonstrates that infection does protect
9 against reinfection;”³⁵ *SCIENCE* reporting “Substantial immune memory is generated after
10 natural infection with COVID-19, involving all four major types of immune memory”;³⁶ and
11 *Nature* reporting: “SARS-CoV-2 infection induces long-lived bone marrow plasma cells in

12 _____
13 ³⁰ Haveri, A (2021). *Persistence of neutralizing antibodies a year after SARS-CoV-2*
14 *infection in humans*. Eur. J. Immunol. 2021. 0: 1-12.
<https://onlinelibrary.wiley.com/doi/epdf/10.1002/eji.202149535>.

15 Block, J. (2021). *Vaccinating people who have had covid-19: why doesn't natural*
16 *immunity count in the US?* BMJ 2021;374:n2101.
<https://www.bmj.com/content/374/bmj.n2101>.

17 ³¹ Callaway, E (May 26, 2021). *Had COVID? You'll probably make antibodies for a*
18 *lifetime*. Nature. <https://www.nature.com/articles/d41586-021-01442-9>.

19 ³² Doshi, P (2020). *Covid-19: Do many people have pre-existing immunity?* BMJ
2020;370:m3563. <https://www.bmj.com/content/370/bmj.m3563>.

20 ³³ Le Bert, N (2020). *SARS-CoV-2-specific T cell immunity in cases of COVID-19 and*
21 *SARS, and uninfected controls*. Nature 2020 Aug;584(7821):457-462.
<https://pubmed.ncbi.nlm.nih.gov/32668444/>.

22 ³⁴ UW Medicine (2020). *Antibody neutralizes SARS and COVID-19 coronaviruses*. News
23 Release. [https://newsroom.uw.edu/news/antibody-neutralizes-sars-and-covid-19-](https://newsroom.uw.edu/news/antibody-neutralizes-sars-and-covid-19-coronaviruses)
[coronaviruses](https://newsroom.uw.edu/news/antibody-neutralizes-sars-and-covid-19-coronaviruses).

24 ³⁵ Krammer, F (April 17, 2021). *Comment: Correlates of protection from SARS-CoV-2*
25 *infection*. The Lancet. Vol 397, Issue 10283, P1421-1423.
26 [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00782-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00782-0/fulltext).

27 ³⁶ Dan, J. M., et al. (2021). Immunological memory to SARS-CoV-2 assessed for up to 8
28 months after infection. *SCIENCE* (New York. N.Y.), 371(6529).
<https://doi.org/10.1126/science.abf4063>.

1 humans.”³⁷

2 **39.** Public health has always acknowledged this basic fact of immunology³⁸ - that
3 immunity from natural infection is the best, most robust, and longest lasting. By screening for
4 prior immunity, the Covid 19 Recovered will be protected from the medical harm caused by
5 unnecessary vaccinations. If a prior immunity exists, then no shot is indicated, because risk
6 without reward violates all medical ethics. Any attempt to force one-size-fits-all vaccination
7 upon Plaintiff does not satisfy logic, medical ethics, or constitutional strict scrutiny.

8 **40.** Defendants continue to use prescreening for *other* viral infections (allowing
9 naturally immune students a medical exemption to vaccination for measles, mumps, rubella,
10 hepatitis B, hepatitis A, chickenpox, and others)³⁹. Defendants arbitrarily reject titers just for
11 Covid-19 and as the Covid-19 injections are personal treatment only, under the strict scrutiny
12 line of federal precedents, this is not narrowly tailored. See e.g., “rights to determine one’s
13 own medical treatment, and to refuse unwanted medical treatment,” are “fundamental[,]” and
14 individuals also have “a fundamental liberty interest in medical autonomy.” *Coons v. Lew*, 762
15 F.3d 891, 899 (9th Cir. 2014) (as amended) (internal cites omitted), cert. denied in *Coons v.*
16 *Lew*, 575 US 935 (2015).

17 **41.** Because vaccinating the immune is well known to be both unnecessary and
18 potentially dangerous, public health vaccination programs have *always* included a standardized
19 prescreening process. Defendants’ one-size-fits-all vaccine mandate completely ignores this

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21 ³⁷ Turner, J.S., et al. (2021). *SARS-Co V-2 infection induces long-lived bone marrow
plasma cells in humans*. NATURE 595, 421-425. <https://pubmed.ncbi.nlm.nih.gov/34030176/>.

22 ³⁸ See footnote 26.

23 ³⁹ See e.g., University of Nevada, Reno (2021). *Immunizations, Titers and Infection
24 Screening*. Student Health Center. [https://med.unr.edu/student-health-
center/services/immunizations-titers-and-infection-screening](https://med.unr.edu/student-health-center/services/immunizations-titers-and-infection-screening).

25 University of Nevada, Las Vegas (2021). *Immunizations*. Office of the Registrar.
26 <https://www.unlv.edu/registrar/immunizations> (“Acceptable Proof of Immunization...Lab
report that indicates immunity (titer test for MMR)”).

27 DPBH (2021). *Nevada School Immunization Requirements*.
28 [https://dpbh.nv.gov/uploadedFiles/dpbhgov/content/Programs/SIP/Docs/NVSchoolImmuniz
ationRequirements.pdf](https://dpbh.nv.gov/uploadedFiles/dpbhgov/content/Programs/SIP/Docs/NVSchoolImmunizationRequirements.pdf).

1 decades-old accepted science that protects Plaintiff.⁴⁰ The new Covid-19 vaccines have, in
 2 addition to the above general risks, definite and specific heightened risk, including death, and
 3 the possibility of later Antibody Dependent Enhancement (ADE).⁴¹

4 **42.** Prescreening must be recognized immediately because more than half the
 5 American population is Covid-19 Recovered. “As of July 1, 2021, about 53.8% of the 330
 6 million people living in the U.S. have been infected with SARS-CoV-2....”⁴² In November
 7 2021, this number exceeds 200 million people.

8 **43.** Because there is evidence of severe higher risk, and because Covid-19
 9 vaccination is a new agent, prescreening must be as robust as possible, including ruling out:
 10 current infection, recent past infection (i.e., antibody testing), and older past infection (i.e., T-
 11 detect, humoral immunity). This is accomplished by doctors in all the traditional ways, such as
 12 taking a thorough patient history, and blood testing where indicated. The journal Nature states:
 13 “A detrimental effect linked to pre-existing immunity is eminently testable and would be
 14 revealed by the same COVID-19 cohort and vaccine studies proposed above.”⁴³

15 **DEFENDANTS IGNORE THAT THE VACCINES DO NOT STOP TRANSMISSION**
 16 **OF THE VIRUS**

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 18 ⁴⁰ For example, antibodies to a specific portion of a pathogenic complex can be enhanced
 19 and activated when exposed in high concentration in the future. This phenomenon is common
 20 in such infections as Dengue, HIV, SARS, and Ebola. In the case of human coronaviruses, the
 21 worst-case scenario, immunologically, would be when cross-reactive memory antibodies to
 related coronaviruses would not only be non-protective but would worsen the infection and the
 clinical course. Such a phenomenon of antibody dependent enhancement (ADE) has already
 been described in several viral infections.

22 ⁴¹ Morens DM (1994). *Antibody-dependent enhancement of infection and the*
 23 *pathogenesis of viral disease*. Clin Infect Dis. 1994 Sep;19(3):500-12.
<https://pubmed.ncbi.nlm.nih.gov/7811870/>.

24 ⁴² Physicians for Informed Consent (2021). *SARS-CoV-2 COVID-19: What You Need To*
 25 *Know*. [https://physiciansforinformedconsent.org/wp-content/uploads/2021/08/PIC-COVID-19-](https://physiciansforinformedconsent.org/wp-content/uploads/2021/08/PIC-COVID-19-Disease-Information-Statement-DIS-August-2021.pdf)
 26 [Disease-Information-Statement-DIS-August-2021.pdf](https://physiciansforinformedconsent.org/wp-content/uploads/2021/08/PIC-COVID-19-Disease-Information-Statement-DIS-August-2021.pdf).

27 ⁴³ Sette, A., et al. (2020). *Pre-existing immunity to SARS-CoV-2: the knowns and*
 28 *unknowns*. Nat Rev Immunol 20, 457–458. [https://www.nature.com/articles/s41577-020-0389-](https://www.nature.com/articles/s41577-020-0389-Z)
[Z](https://www.nature.com/articles/s41577-020-0389-Z).

1 **44.** Covid-19 vaccines are not vaccines in the traditional sense. In fact, the FDA
2 classifies them as “CBER-Regulated Biologics” otherwise known as “therapeutics” which falls
3 under the “Coronavirus Treatment Acceleration Program.”⁴⁴

4 **45.** The vaccine is misnamed since it does not prevent either re-infection or
5 transmission of the disease, the key elements of a vaccine. The CDC has publicly stated that
6 the vaccine is effective in reducing the severity of the disease but not infection, re-infection, or
7 transmission. The injection is a personal treatment and does not stop transmission of the virus.

8 **46.** The current strain of Covid-19 is the Delta strain.⁴⁵ The CDC Director has stated
9 that the vaccines do not stop the transmission of the Delta strain. Studies show the Delta strain
10 passes easily amongst vaccinated persons.⁴⁶ The CDC website states: “... preliminary evidence
11 suggests that fully vaccinated people who do become infected with the Delta variant can
12 spread the virus to others.”⁴⁷

13 **47.** The effectiveness of the Covid-19 vaccines has been determined to wane rapidly.
14 Israel, the most vaccinated and studied nation, now expires the vaccine’s effectiveness at six
15 months.⁴⁸ The requirement for booster shots due to it not stopping transmission has been
16

17 ⁴⁴ FDA (2021). *Coronavirus (COVID-19) | CBER-Regulated Biologics*.
18 <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologic>.

19 FDA (2021). *Coronavirus Treatment Acceleration Program (CTAP)*.
20 <https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap>.

21 ⁴⁵ CDC (November 4, 2021). *Covid Data Tracker Weekly Review*. COVID-19.
22 <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>.

23 ⁴⁶ See footnote 2.

24 ⁴⁷ CDC (October 15, 2021). *Interim Public Health Recommendations for Fully*
25 *Vaccinated People*. COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>.

26 ⁴⁸ Guenot, M. (September 1, 2021). *Israel’s Vaccine Pass Will Expire 6 Months After the*
27 *2nd Dose, Meaning People Will Need Booster Shots to Keep Going to Restaurants and Bars*.
28 Business Insider. <https://www.businessinsider.com/israel-vaccine-pass-to-expire-after-6-months-booster-shots-2021-9>.

1 recognized by the CDC, which initially recommended no booster shots, then annually, then at
 2 8 months and then 6 months. There is already talk of a fourth booster shot and the Australian
 3 Health Minister Dr. Kerry Chant has stated that people will “have to get used to” taking
 4 vaccines perpetually.⁴⁹

5 **48.** Those countries with the highest rates of Covid-19 vaccination also experience
 6 the highest rates of infection. Those counties with the highest rates of vaccination also have the
 7 highest rates of hospitalization and severe illnesses with regard to the Delta strain, which is the
 8 only variant of concern (>99.9%) throughout the United States.⁵⁰

9 **49.** Data from multiple nations shows Covid-19 vaccines are completely useless
 10 against stopping the transmission or acquisition of the Delta strain of SARS-CoV-2.^{51, 52}

11 **50.** The CDC Director acknowledged that the Covid-19 vaccines do not prevent
 12 infection or transmission of Covid-19: “[W]hat the vaccines can’t do anymore is prevent
 13 transmission.”⁵³ Regarding clinical trial data showing absolute risk reduction of the vaccine to
 14 Covid-19, a vaccinated person is still 99% as likely to catch Covid-19 as they were before
 15 being vaccinated (99.2% in the case of Pfizer).⁵⁴

16
 17 ⁴⁹ Durden, T. (September 7, 2021). *Aussie Health Chief: COVID Will be With US*
 18 *“Forever”, People Will Have to “Get Used To” Endless Booster Vaccines*, ZeroHedge.com
 (September 07, 2021), <https://www.zerohedge.com/covid-19/aussie-health-chief-covid-will-be-us-forever-people-will-have-get-used-endless-booster>.

19 ⁵⁰ CDC (November 4, 2021). *COVID Data Tracker*. COVID-19.
 20 <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>.

21 ⁵¹ Liu, Y et al (2021). *The SARS-CoV-2 Delta variant is poised to acquire complete*
 22 *resistance to wild-type spike vaccines*. BioRxiv.
<https://www.biorxiv.org/content/10.1101/2021.08.22.457114v1.full.pdf>.

23 ⁵² Delaney, P (October 6, 2021). *Brief video illustrates dramatic spikes in COVID-19*
 24 *deaths after jabs in 40 nations*. LifeSite News. <https://www.lifesitenews.com/news/brief-video-illustrates-dramatic-spikes-in-covid-19-deaths-following-jabs-in-40-nations/>.

25 ⁵³ CNN (August 5, 2021). *The Situation Room, interview with CDC Director Walensky*.
 26 <https://twitter.com/CNNSitRoom/status/1423422301882748929>.

27 ⁵⁴ Olliaro, P, et al. (July 2021). *COVID-19 vaccine efficacy and effectiveness-the elephant*
 28 *(not) in the room*. Lancet Microbe. 2021;2(7):e279-e280.

1 **51.** The claimed benefit of the Covid-19 vaccine is solely that it may reduce
2 *symptoms* of the virus, but not *transmission* of the virus. Therefore, Covid-19 vaccines are
3 personal treatment choices only, explaining why the CDC changed its definition of “vaccine”
4 in August 2021 from “the act of introducing a vaccine into the body to produce immunity to a
5 specific disease” to “the act of introducing a vaccine into the body to produce protection to a
6 specific disease.”⁵⁵

7 **52.** In total contrast to the smallpox vaccine, the Covid-19 injections cannot be
8 claimed to stop the spread of contagious disease. Rather, they are *increasing* the spread of a
9 contagious disease.⁵⁶ This distinguishes the finding in *Jacobson* which specifically stated and
10 relied upon a vaccine mandate working “to prevent the spread of contagious disease.”
11 *Jacobson, supra*, 197 US at 35.

12 **53.** As well, the stated public health goal of *Jacobson* was to reduce mortality from
13 a highly lethal 30% viral infection, whereas Covid-19 is not lethal at all to healthy college
14 students.

15 **DEFENDANTS IGNORE THE SCIENCE: PANDEMIC OF THE VACCINATED**

16 **54.** All ordinary persons including Plaintiff can directly observe that Covid-19
17 vaccination does not stop transmission and is harming some individuals. Thousands of
18 scientists and physicians and politicians from all political sides and all around the globe have
19 repeatedly stated this publicly. For example:

- 20 a. NIAID Director Dr. Anthony Fauci to NPR: “We know now as a fact that
21 [vaccinated people with Covid-19] are capable of transmitting the infection to
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25 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8057721/>.

26 ⁵⁵ Attkisson, S (September 8, 2021). *CDC changes definition of “vaccines” to fit Covid-19 vaccine limitations*. <https://sharylattkisson.com/2021/09/read-cdc-changes-definition-of-vaccines-to-fit-covid-19-vaccine-limitations/>.

27 ⁵⁶ See footnote 4.

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someone else.”⁵⁷

- b. WHO Chief Scientist Dr. Soumya Swaminathan: "At the moment I don't believe we have the evidence of any of the vaccines to be confident that it's going to prevent people from actually getting the infection and therefore being able to pass it on."⁵⁸
- c. Chief Medical Officer of Moderna Dr. Tal Zaks: “There’s no hard evidence that it stops them from carrying the virus transiently and potentially infecting others who haven’t been vaccinated.”⁵⁹
- d. The Prime Minister of the United Kingdom, the Honorable Boris Johnson: “... but it doesn’t protect you against catching the disease and it doesn’t protect you against passing it on”⁶⁰
- e. The Surgeon General of the State of Florida, Dr. Joseph Ladapo, MD, PhD: “... the infections can still happen whether people are vaccinated or not. That's very obvious.”⁶¹

⁵⁷ Stieg, C (July 28, 2021). *Dr. Fauci on CDC mask guidelines: ‘We are dealing with a different virus now.* <https://www.cnn.com/2021/07/28/dr-fauci-on-why-cdc-changed-guidelines-delta-is-a-different-virus.html>.

⁵⁸ Colson, T. (December 29, 2020). *Top WHO scientist says vaccinated travelers should still quarantine, citing lack of evidence that COVID-19 vaccines prevent transmission.* Business Insider. <https://www.businessinsider.com/who-says-no-evidence-coronavirus-vaccine-prevent-transmissions-2020-12?op=1>.

⁵⁹ Manskar, N (November 24, 2020). *Moderna boss says COVID-19 vaccine not proven to stop spread of virus.* New York Post. <https://nypost.com/2020/11/24/moderna-boss-says-covid-shot-not-proven-to-stop-virus-spread/>.

⁶⁰ Jones, W (October 24, 2021). *Boris Admits the Vaccine ‘Doesn’t Protect You Against Catching the Disease, and It Doesn’t Protect You Against Passing it On.* The Daily Sceptic. <https://dailysceptic.org/2021/10/24/boris-admits-the-vaccine-doesnt-protect-you-against-catching-the-disease-and-it-doesnt-protect-you-against-passing-it-on/>.

⁶¹ WFLA News (October 24, 2021). *Desantis, Moody Speak Out Against Vaccine Mandates in Clearwater.* Twitter Repost. <https://twitter.com/4patrick7/status/1452309002021388296?s=21>.

- 1 f. Professor Sir Andrew Pollard who led the Oxford vaccine team: “We don’t
2 have anything that will stop transmission, so I think we are in a situation where
3 herd immunity is not a possibility and I suspect the virus will throw up a new
4 variant that is *even better* at infecting vaccinated individuals.”⁶²
- 5 g. “Based on this data it is all but a certainty that mass COVID-19 immunization
6 is hurting the health of the population in general. Scientific principles dictate
7 that the mass immunization with COVID-19 vaccines must be halted
8 immediately because we face a looming vaccine induced public health
9 catastrophe.”⁶³
- 10 h. 2008 Nobel Prize winner in Medicine Dr. Luc Montagnier (and the French
11 National Order of Merit and 20 other major international awards): “The
12 vaccines don’t stop the virus, they do the opposite – they “feed the virus,” and
13 facilitate its development into stronger and more transmissible variants... You
14 see it in each country, it’s the same: the curve of vaccination is followed by the
15 curve of deaths ... the vaccines Pfizer, Moderna, Astra Zeneca do not prevent
16 the transmission of the virus person-to-person and the vaccinated are just as
17 transmissible as the unvaccinated.”⁶⁴
- 18 i. Dr. Vanden Bossche, international vaccinologist formerly with the Bill &
19 Melinda Gates Foundation: “As a dedicated virologist and vaccine expert I only
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21 ⁶² Curzon, M (August 10, 2021). *Vaccines Don’t Stop Transmission and Won’t Give Us*
22 *Herd Immunity, So Let’s Stop Mass Testing, Experts Tell MPs*. Rights and Freedoms.
23 <https://rightsandfreedom.wordpress.com/2021/08/14/vaccines-dont-stop-transmission-and-wont-give-us-herd-immunity-so-lets-stop-mass-testing-experts-tell-mps/>.

24 ⁶³ Classen B (August 25, 2021). *US COVID-19 Vaccines Proven to Cause More Harm*
25 *than Good Based on Pivotal Clinical Trial Data Analyzed Using the Proper Scientific*
26 *Endpoint, “All Cause Severe Morbidity”*. Trends Int Med. 2021; 1(1): 1-6.
<https://www.scivisionpub.com/pdfs/us-covid19-vaccines-proven-to-cause-more-harm-than-good-based-on-pivotal-clinical-trial-data-analyzed-using-the-proper-scientific--1811.pdf>.

27 ⁶⁴ RAIR Foundation USA (2021). Video with *Nobel Laureate Luc*
28 *Montagnier*. <https://rairfoundation.com/tag/luc-montagnier/>.

1 make an exception [to vaccines] when health authorities allow vaccines to be
 2 administered in ways that threaten public health, most certainly when scientific
 3 evidence is being ignored. The present extremely critical situation forces me to
 4 spread this emergency call. As the unprecedented extent of human intervention
 5 in the Covid-19 pandemic is now at risk of resulting in a global catastrophe
 6 without equal, this call cannot sound loudly and strongly enough.... In this
 7 agonizing letter I put all of my reputation and credibility at stake ...continued
 8 mass vaccination, together with the predominant circulation of more infectious
 9 variants (as facilitated by mass vaccination!), will inevitably lead to relatively
 10 higher morbidity and mortality rates in vaccinees than in the nonvaccinated.”⁶⁵

11 j. A study of a Covid-19 outbreak in July 2021 published in *Eurosurveillance*
 12 observed that 100% of severe, critical, and fatal cases of Covid-19 occurred in
 13 vaccinated individuals. The authors stated that the study "challenges the
 14 assumption that high universal vaccination rates will lead to herd immunity and
 15 prevent COVID-19 outbreaks.”⁶⁶

16 k. Dr. Jay Bhattacharya, MD, PhD, Professor of Health Policy, Stanford
 17 University: “There’s no public health reason for a mandate. ... bad for public
 18 health because it causes people not to trust health officials.”⁶⁷

19 l. Dr. Martin Kulldorff, Professor of Medicine at Harvard Medical School: “The
 20

21
 22 ⁶⁵ Vanden Bossche, G (2021). *Mass infection prevention and mass vaccination with leaky
 23 Covid-19 vaccines in the midst of the pandemic can only breed highly infectious variants.*
 Open Letter to World Health Organization. <https://www.geertvandenbossche.org/>.

24 ⁶⁶ Pnina, S. et al (September 23, 2021). *Nosocomial outbreak caused by the SARS-CoV-2
 25 Delta variant in a highly vaccinated population, Israel, July 2021.* *Euro*
 26 *Surveill.* 2021;26(39):pii=2100822. <https://doi.org/10.2807/1560-7917.ES.2021.26.39.2100822>.

27 ⁶⁷ Hill, ZK (July 21, 2021). *Stanford Doc Jay Bhattacharya Calls Vaccine Mandates
 28 'Unethical,' Says Patients Can Choose.* *Newsweek.* <https://www.newsweek.com/stanford-doc-jay-bhattacharya-calls-vaccine-mandates-unethical-says-patients-can-choose-1611938>

1 bottom line is that these vaccines do not prevent transmission.”⁶⁸

2 m. Dr. Sunetra Gupta, Infectious Disease Epidemiologist and Professor of
3 Theoretical Epidemiology at the University of Oxford: “...it is really not logical
4 to use vaccines to protect other people ... I don’t think they should be forced to
5 on the understanding simply because this vaccine does not prevent
6 transmission. So if you just think of the logic of it, what is the point of requiring
7 a vaccine to protect others if that vaccine does not durably prevent onward
8 transmission of a virus?”⁶⁹

9 n. In the heavily vaccinated State of Vermont, 76% of deaths are among the
10 vaccinated.⁷⁰

11 o. A CDC investigation of an outbreak in Barnstable County, Massachusetts,
12 between July 6 through July 25, 2021, found 74% of those who received a
13 diagnosis of Covid-19, and 80% of hospitalizations, were among the fully
14 vaccinated, as most (but not all), had the Delta variant of the virus (note: since
15 the County did not have a population that was 74% fully Covid-19 vaccinated,
16 this would mean the vaccines *increase* the odds of being infected with Covid-
17 19).⁷¹

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19 ⁶⁸ Adams, P, et al. (October 20, 2021). *Who Are These COVID-19 Vaccine Skeptics and What*
20 *Do They Believe?* Epoch Times. https://www.theepochtimes.com/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe_4043094.html.

21
22 ⁶⁹ Allen, R. (September 9, 2021). *Oxford Scientist “It’s Illogical & Unethical To Force*
23 *Jab On NHS Staff”*. The Richie Allen Radio Show. <https://richieallen.co.uk/oxford-scientist-its-illogical-unethical-to-force-jab-on-nhs-staff/>.

24 ⁷⁰ Page, G. (September 30, 2021). *76% of September Covid-19 deaths are vax*
25 *breakthroughs*. The Vermont Daily
26 Chronicle. <https://vermontdailychronicle.com/2021/09/30/76-of-september-covid-19-deaths-are-vaxxed-breakthroughs/> (“Just eight of the 33 Vermonters who died of Covid-19 in
27 September were unvaccinated, the Vermont Department of Health said Wednesday.”)

28 ⁷¹ Brown CM, et al. (July 2021). *Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings*

- 1 p. Scientists and clinicians monitoring patients in real time are achieving superior
 2 health outcomes than CDC recommendations, utilizing therapeutic protocols
 3 (such as ivermectin)⁷², and emphasizing the robustness of natural immunity. An
 4 example of this came recently from Dr. Marty Makary, a professor at the
 5 Bloomberg School of Public Health, who stated publicly that because “half the
 6 country” likely already have natural lifelong immunity to Covid-19, “I never
 7 thought I’d say this, but please ignore the CDC guidance.”⁷³
- 8 q. Dr. Peter McCullough, author of more than 1000 publications and 500 citations
 9 in the National Library of Medicine, President Bill Clinton’s advisory panel to
 10 health care, Chair of more than 24 data safety monitoring boards for the NIH
 11 and FDA: “Vaccines do not stop transmission. During an outbreak, healthcare
 12 workers were still getting Covid during the lockdown and passing it to one
 13 another.”⁷⁴ And “New research [Oxford University] shows people who are
 14

15 — *Barnstable County, Massachusetts, July 2021*. MMWR Morb Mortal Wkly Rep
 16 2021;70:1059-
 17 1062. https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w.
 18 Lovelace, B (July 30, 2021). *CDC study shows 74% of people infected in*
 19 *Massachusetts Covid outbreak were fully vaccinated*. CNBC
 20 News. <https://www.cnbc.com/2021/07/30/cdc-study-shows-74percent-of-people-infected-in-massachusetts-covid-outbreak-were-fully-vaccinated.html>.

21 ⁷² CovidAnalysis (November 4, 2021). *COVID-19 early treatment: real-time analysis of 1,117 studies*. <https://c19early.com/>.

22 ⁷³ Shiver, P. (May 2021). *John Hopkins professor says 'ignore the CDC' - 'natural immunity works'*. Blaze Media. <https://www.theblaze.com/news/johns-hopkins-professor-ignore-cdc-natural-immunity-works> (“Natural immunity works... We've got to start respecting individuals who choose not to get the vaccine, instead of demonizing them. There is more data on natural immunity than there is on vaccinated immunity, because natural immunity has been around longer.”)

23 ⁷⁴ Children’s Health Defense (August 25, 2021). *Dr. Peter McCullough Tells RFK, Jr.: ‘The Vaccines Are Failing’*. The Defender. <https://childrenshealthdefense.org/defender/rfk-jr-podcast-dr-peter-mccullough-vaccines-are-failing/>.

1 vaccinated against Covid are more susceptible to the Delta variant.”⁷⁵

2 **55.** On August 1, 2021, the director of Israel’s Public Health Services announced
3 half of all Covid-19 infections were among the fully vaccinated.⁷⁶

4 **56.** On August 5, 2021, the director of the Herzog Hospital in Jerusalem appeared
5 on Channel 13 News, reporting that 95% of severely ill Covid-19 patients are fully vaccinated,
6 and that they make up 85% to 90% of Covid-19 related hospitalizations overall.⁷⁷

7 **57.** 21 Israeli physicians, scientists advise FDA of ‘severe concerns’ regarding
8 reliability and legality of official Israeli COVID vaccine data: “We are aware that the state of
9 Israel is perceived as ‘the world laboratory’ regarding the safety and efficacy of the Pfizer-
10 BioNTech COVID-19 vaccine, as reflected by statements made by Dr. Albert Bourla, Dr.
11 Anthony Fauci. We thus see it of utmost importance to convey a message of warning and raise
12 our major concerns regarding potential flaws in the reliability of the Israeli data with respect to
13 the Pfizer-BioNTech COVID-19 vaccine, as well as many significant legal and ethical
14 violations that accompany the data collection processes.”⁷⁸

15 **58.** In Scotland, official data on hospitalizations and deaths show 87% of those who
16 have died from Covid-19 in the third wave that began in early July were vaccinated.⁷⁹

17 _____
18 ⁷⁵ See footnote 2.

19 ⁷⁶ Bloomberg News (August 1, 2021). *Israel sees waning coronavirus vaccine*
20 *effectiveness*. <https://www.bostonglobe.com/2021/08/01/nation/israel-sees-waning-coronavirus-vaccine-effectiveness/>.

21 ⁷⁷ Fleetwood, J. (August 8, 2021). *Vaxxed Make Up ‘85-90% of the Hospitalizations’*
22 *from Covid Infection in Israel: Dr. Kobi Haviv*. American
23 Faith. <https://americanfaith.com/vaxxed-make-up-85-90-of-the-hospitalizations-from-covid-infection-in-israel-dr-kobi-haviv/>.

24 ⁷⁸ Sones, M. (October 22, 2021). *BREAKING: Israeli physicians, scientists advise FDA*
25 *of ‘severe concerns’ regarding reliability and legality of official Israeli COVID vaccine data*.
26 America’s Frontline Doctors. <https://americasfrontlinedoctors.org/2/frontlinenews/breaking-israeli-physicians-scientists-advise-fda-of-severe-concerns-regarding-reliability-and-legality-of-official-israeli-covid-vaccine-data/>.

27 ⁷⁹ Daily Expose (July 29, 2021). *Exclusive - Covid-19 are rising and official data shows*
28

1 **59.** Undercover video and emails from US health agencies and vaccine
 2 manufacturers confirm⁸⁰ that (1) vaccine injuries are underreported because vested interests
 3 want to “shove it under the mat”,⁸¹ (b) vaccine tracking is implemented in a fascist manner, (c)
 4 vaccination is both unnecessary and harmful, (d) natural immunity is superior to vaccination,
 5 and (e) vaccine manufacturers actively conceal from the public the use of aborted fetuses to
 6 develop vaccines.

7 **THE UNDERLYING STATISTICS SURROUNDING COVID-19 ARE FLAWED**

8 **60.** On January 30, 2020, the World Health Organization declared a public health
 9 emergency of international concern due to the SARS-CoV-2 virus.

10 **61.** On January 31, 2020, President Trump first issued a public health state of
 11 emergency in the United States under the Public Health Service Act due to Covid-19.

12 **62.** Also on January 31, 2020, Secretary of Health and Human Services Alex M.
 13 Azar II, issued a Declaration of a Public Health Emergency effective as of January 27, 2020.
 14 This declaration has been renewed thereafter on April 21, 2020, July 23, 2020, October 2,
 15 2020, January 7, 2021, April 15, 2021, July 19, 2021, and October 15, 2021.

16 **63.** President Trump issued a subsequent declaration of emergency under the
 17

18 *87% of the people who have died were vaccinated.* Daily Expose.
 19 <https://dailyexpose.co.uk/2021/07/29/87-percent-covid-deaths-are-vaccinated-people/>; see
 20 also Daily Expose (September 8, 2021). *80% of Covid-19 deaths in August were people who*
 21 *had been vaccinated according to Public Health data.* Daily
 Expose. [https://theexpose.uk/2021/09/08/exclusive-80-percent-of-covid-19-deaths-in-august-](https://theexpose.uk/2021/09/08/exclusive-80-percent-of-covid-19-deaths-in-august-were-people-who-had-been-vaccinated/)
[were-people-who-had-been-vaccinated/](https://theexpose.uk/2021/09/08/exclusive-80-percent-of-covid-19-deaths-in-august-were-people-who-had-been-vaccinated/).

22 ⁸⁰ Project Veritas (2021). *COVID-19 Vaccine Exposed.* <https://www.projectveritas.com/>.

23 ⁸¹ This observation is also corroborated by (a) the Lazarus report from Harvard Pilgrim
 24 evidencing that less than 1% of vaccine adverse events are reported to VAERS
 25 ([https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-](https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf)
 26 [2011.pdf](https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf)), and (b) in another case filed by Plaintiff AFLDS, see the declaration of a
 27 whistleblower who compared the high number of vaccine deaths in private CMS medical
 28 claims to the low number of vaccine deaths reported to VAERS. *America’s Frontline Doctors,*
et al. v. Becerra et al. Case 2:21-cv-00702-CLM, United States District Court (Northern
 District of Alabama), Dkt. 15-4 (Declaration filed 07/19/21).

1 Stafford Act and National Emergencies Act on March 13, 2020, due to Covid-19.

2 **64.** A third declaration of emergency was issued by President Trump on March 18,
3 2020, under the Defense Production Act due to Covid-19.

4 **65.** On February 24, 2021, President Biden extended President Trump’s March 13,
5 2020 declaration of emergency, stating as a reason for doing so is that more “...than 500,000
6 people in this Nation have perished from the disease.”⁸²

7 **66.** Thus, the United States has been in a constant state of emergency due to Covid-
8 19 (the “Covid-19 Emergency”) since January 31, 2020, a period of over twenty months.

9 **67.** The Covid-19 Emergency has been used to justify lockdowns, banning of
10 worship services, mandatory masks, vaccine passports, and now mandatory vaccinations such
11 as the vaccination requirement the State has now placed on Plaintiff upon penalty of
12 segregation and loss of education and livelihood.

13 **68.** Never in the history of this nation have Americans been subjected to such
14 invasions of their individual rights and liberties.

15 **i. COVID Cases Dramatically Overstated due to Misapplication of the**
16 **PCR Test**

17 **69.** The Covid-19 Emergency is based upon statistics that are flawed for at least the
18 following reasons, as also covered in the Kammerer Decl.:

- 19 a. Statistics regarding Covid-19 are based upon the PCR test, which is a limited
20 test that cannot, on its own, determine whether a test subject is infected with
21 Covid-19 absent an examination by a medical doctor.
- 22 b. The PCR test is highly sensitive, with the result of the test being dependent upon
23 the cycle threshold (“Ct”) at which the test is conducted.

24
25 ⁸² Biden, J (February 24, 2021). *Notice on the Continuation of the National Emergency*
26 *Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic.*
27 <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/> (for the text of the President’s transmitting message please see
28 <https://www.govinfo.gov/content/pkg/CDOC-117hdoc18/html/CDOC-117hdoc18.htm>).

- 1 c. Dr. Fauci has stated that a test conducted at a Ct of over 35 is useless.⁸³
- 2 d. At Ct \geq 35 the accuracy of the test drops to 3%⁸⁴ or 97% false positive
- 3 e. The World Health Organization agreed and in December 2020 stated that labs
- 4 should (at the very least) report the cycle threshold (Ct value) to the healthcare
- 5 provider⁸⁵ which still does not happen.
- 6 f. The inventor of the PCR test, 1993 Nobel Prize winner in Chemistry, Professor

7

8 ⁸³ Fauci, A (October 30, 2020). *PCR cycles*. This Week In Virology.
 9 <https://www.youtube.com/watch?v=A867t1JbIrs>.

10 New York Times (August 29, 2020 and updated July 3, 2021). *Your Coronavirus Test*
 11 *Is Positive. Maybe It Shouldn't Be*. <https://www.nytimes.com/2020/08/29/health/coronavirus-testing.html>.

12 ⁸⁴ Jaafar, R, et al. (2020). *Correlation Between 3790 Quantitative Polymerase Chain*
 13 *Reaction–Positives Samples and Positive Cell Cultures, Including 1941 Severe Acute*
 14 *Respiratory Syndrome Coronavirus 2 Isolates*. *Clinical Infectious Diseases*, Volume 72, Issue

15 11, 1 June 2021, Page e921. <https://academic.oup.com/cid/article/72/11/e921/5912603>
 16 Borger, P, et al. (2020). *External peer review of the RTPCR test to detect SARS-CoV-2*
 17 *reveals 10 major scientific flaws at the molecular and methodological level: consequences for*
 18 *false positive results*. Corman-Drosten Review Report.
 19 <https://cormandrostenreview.com/report/> (80% false positives).

20 Mina, M, et al. (February 17, 2021). *Clarifying the evidence on SARSCoV-2 antigen*
 21 *rapid tests in public health responses to COVID-19*. *The Lancet*.
 22 [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00425-6/fulltext#%20](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00425-6/fulltext#%20)’ or
 23 [https://doi.org/10.1016/S0140-6736\(21\)00425-6](https://doi.org/10.1016/S0140-6736(21)00425-6) (“This suggests that 50–75% of the time an
 24 individual is PCR positive, they are likely to be post-infectious.”)

25 Arzteitung (July 4, 2020). *Second week of June: 80 Percent of Positive Corona Rapid*
 26 *Tests False-Positive*. [https://www.aerztezeitung.de/Wirtschaft/80-Prozent-der-positiven-](https://www.aerztezeitung.de/Wirtschaft/80-Prozent-der-positiven-Corona-Schnelltests-falsch-positiv-421053.html)
 27 [Corona-Schnelltests-falsch-positiv-421053.html](https://www.aerztezeitung.de/Wirtschaft/80-Prozent-der-positiven-Corona-Schnelltests-falsch-positiv-421053.html) (The fact that the high rate of false positive
 28 tests in large-scale testing in the population occurs at a time of low viral incidence is
 demonstrated in the article from the German *Ärztezeitung*. At the end of the regular cold
 season (May), about 50% of rapid tests were already reported as false positive, and this rate
 increased until it reached 80% false positive tests); and compare, Corman, V et al. (July 2021).
Comparison of seven commercial SARS-CoV-2 rapid point-of-care antigen tests: a single-
centre laboratory evaluation study. *Lancet Microbe*. 2021 Jul; 2(7): e311–e319.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8026170/> (“false-positives do occur with
 AgPOCTs at a higher rate than with RT-rtPCR.”)

26 ⁸⁵ WHO (December 2020). *Nucleic acid testing (NAT) technologies that use real-time*
 27 *polymerase chain reaction (RT-PCR) for detection of SARS-CoV-2*. WHO News.
 28 [https://web.archive.org/web/20201215013928/https://www.who.int/news/item/14-12-2020-](https://web.archive.org/web/20201215013928/https://www.who.int/news/item/14-12-2020-who-information-notice-for-ivd-users)
[who-information-notice-for-ivd-users](https://web.archive.org/web/20201215013928/https://www.who.int/news/item/14-12-2020-who-information-notice-for-ivd-users).

1 Kary Mullis said it “was never designed to diagnose diseases.”⁸⁶

- 2 g. Physicians worldwide vehemently protest the use of PCR testing to diagnose
3 Covid-19: “This misuse of RT-PCR technique is used as a relentless and
4 intentional strategy by some governments, supported by scientific safety
5 councils and by the dominant media, to justify excessive measures such as the
6 violation of a large number of constitutional rights, the destruction of the
7 economy with the bankruptcy of entire active sectors of society, the degradation
8 of living conditions for a large number of ordinary citizens, under the pretext of
9 a pandemic based on a number of positive RT-PCR tests, and not on a real
10 number of patients.”⁸⁷
- 11 h. A Court in Portugal ruled that a single PCR test was not fit for diagnosing
12 Covid-19. The two judges referred to several scientific studies and held that any
13 PCR test over 25 cycles is totally unreliable.⁸⁸
- 14 i. Despite this known sensitivity, the PCR tests were mass distributed in the United
15 States without training, were used by technicians who were not made aware of
16 the limitations of the test,⁸⁹ and were operated at a Ct value far in excess of 35,
17 therefore, delivering results that were, according to Dr. Fauci and a broad
18

19 ⁸⁶ O’Sullivan, J (December 17, 2020). *WHO Finally Admits COVID19 PCR Test Has A*
20 *‘Problem*. Principia Scientific International. <https://principia-scientific.com/who-finally-admits-covid19-pcr-test-has-a-problem/>.

21 ⁸⁷ Sacre, P (November 11, 2020). *Using PCR Tests To Diagnose COVID19 Is Bad*
22 *Science & Fraudulent*. Principia Scientific International. <https://principia-scientific.com/using-pcr-tests-to-diagnose-covid19-is-bad-science-fraudulent/>.

23 ⁸⁸ Lisbon Court of Appeal. (November 11, 2020). *SARS-COV-2 RT-PCR TESTS*. TRL
24 Judgments. [https://www-dgsi-
25 pt.translate.goog/jtrl.nsf/33182fc732316039802565fa00497eec/79d6ba338dcbe5e28025861f003e7b30? x tr sch=http& x tr sl=pt& x tr tl=en& x tr hl=en-US& x tr pto=nui](https://www-dgsi-pt.translate.goog/jtrl.nsf/33182fc732316039802565fa00497eec/79d6ba338dcbe5e28025861f003e7b30?x_tr_sch=http&x_tr_sl=pt&x_tr_tl=en&x_tr_hl=en-US&x_tr_pto=nui).

26 ⁸⁹ Temple-Raston, D (November 6, 2020). *CDC Report: Officials Knew Coronavirus Test*
27 *Was Flawed But Released It Anyway*. National Public Radio.
28 <https://www.npr.org/2020/11/06/929078678/cdc-report-officials-knew-coronavirus-test-was-flawed-but-released-itanyway>.

1 consensus of experts, useless.⁹⁰

2 j. The PCR test is incapable of distinguishing a live particle of a virus from a dead
3 one, and as a result, even a positive test result does not mean that the test
4 subject is infected or contagious with Covid-19, analogous to a test that could
5 identify car parts (such as an axle, wheels, engine) but not determine if those
6 car parts were in fact, a working car.

7 k. The biggest commercial lab in the United States and those near the UNR campus
8 is Quest, which uses a Ct > 40.⁹¹

9 **ii. The Asymptomatic Spreader is a Myth**

10 **70.** Due to the misapplication of the PCR test which underlies **all** statistics regarding
11 the Covid-19 Emergency, many have incorrectly concluded that asymptomatic people, who in
12 the past would simply have been referred to as “healthy people,” are somehow contagious and
13 are spreading a disease.

14 **71.** Policy decisions at the state and federal level rest upon this myth. For example,
15 mandatory masking of healthy people is based upon this myth. Social distancing is based upon
16 this myth as well. The policy that perfectly healthy, non-contagious people must be vaccinated
17 to interact with and participate in society is based in large degree upon this myth. With regard
18 to flawed statistics, mass PCR testing of the entire population has been based upon this myth.⁹²

19 ⁹⁰ See footnote 83.

20 ⁹¹ Quest Diagnostics (2020). *SARS-CoV-2 RNA, Qualitative Real-Time RT-PCR (Code*
21 *39433) Package Insert, For Emergency Use Only.*
22 <https://www.fda.gov/media/136231/download> ("A specimen is considered Detected [sic] for
23 SARS-CoV-2 if all markers (NI, NJ) cycle threshold amplification curves cross the threshold
line.")

24 ⁹² Borger, P, et al. (2020). *External peer review of the RTPCR test to detect SARS-CoV-2*
25 *reveals 10 major scientific flaws at the molecular and methodological level: consequences for*
26 *false positive results.* Corman-Drosten Review Report.
<https://cormandrostenreview.com/report/>.

27 See, compendium of studies showing face masks do not work to stop Covid-19, but
28 rather actively harm individual health and public health. <https://www.afls.org/covid/masks/>
("Indeed, harms from prolonged masking are increasingly being documented in many
scientific studies, especially in the areas of healthcare workers, school children, newborn

1 There is no reason to test perfectly healthy asymptomatic people absent the belief that
2 asymptomatic people can spread Covid-19.

3 **72.** However, the assumption that people with no symptoms can spread the disease is
4 false. As Dr. Fauci stated September 9, 2020: “[E]ven if there is some asymptomatic
5 transmission, in all the history of respiratory borne viruses of any type, asymptomatic
6 transmission has never been the driver of outbreaks. The driver of outbreaks is always a
7 symptomatic person, even if there is a rare asymptomatic person that might transmit, an
8 epidemic is not driven by asymptomatic carriers.”⁹³ In addition there have been innumerable
9 studies during Covid disproving the “asymptomatic spread” myth, including a massive study
10 published in the British Medical Journal of 10,000,000 PCR + asymptomatic persons who *did*
11 *not spread the virus to a single other person.*⁹⁴

12 **73.** Due to the incorrect assumption that asymptomatic people could spread the
13 disease, mass testing has been instituted of the population at large. Due to the numerous flaws
14 in the PCR test stated above, this mass testing has resulted in dramatically inflated case
15 numbers that do not reflect reality and falsely overstate the number of Covid-19 cases. On
16 college campuses being labelled with a false positive test is much harsher than a non-campus
17 life, resulting in loss of meals, family, classes and confined to a small dorm room for 14 days.

18 **74.** As a result, the data regarding Covid-19 cases being used to shape public policy
19 _____
20 infants, and bacterial infections in the general population, as described below.... Prolonged use
21 of N95 and surgical masks by healthcare professionals during COVID-19 has caused adverse
22 effects such as headaches, rash, acne, skin breakdown, and impaired cognition in the majority
23 of those surveyed... Aiello and colleagues described a study in which 1437 university students
24 were randomized by dormitory to three arms: control, surgical masks alone, and surgical
25 masks plus hand hygiene[;] the study could not distinguish the relative contributions of each
26 intervention.”)

27 Spitzer M (2020). *Masked education? The benefits and burdens of wearing face masks*
28 *in schools during the current Corona pandemic.* Trends in Neuroscience and 16 Education.
2020;20:100138. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7417296/>.

⁹³ Griffin, S (2020). *COVID-19: Asymptomatic cases may not be infectious, Wuhan Study*
Indicates. BMJ 2020;371:m4695. <https://www.bmj.com/content/371/bmj.m4695>.

⁹⁴ *Id.*

1 is highly inflated.

2 **iii. The Covid-19 Recovered Enjoy Robust and Durable Natural Immunity**

3 **75.** Those who recover from infection from Covid-19, which is >99.9% of persons in
4 Plaintiff's age group who are infected, and >99.6% overall,⁹⁵ enjoy robust and durable natural
5 immunity. Natural immunity is superior to vaccine-induced immunity, which do not prevent
6 re-infection or transmission of Covid-19, and do not prevent infection, re-infection or
7 transmission of the current Delta strain. Yeadon Decl.

8 **iv. Mandatory Covid-19 Vaccines Are Contrary to Public Policy: VAERS**

9 **76.** As part of the 1990 Public Readiness and Emergency Preparedness Act, the FDA
10 and CDC created the Vaccine Adverse Event Reporting System (VAERS) to receive reports
11 about suspected adverse events that may be associated with vaccines. VAERS is intended to
12 serve as an early warning system to safety issues.

13 **77.** It is estimated that about 1% of adverse events are reported.⁹⁶ This is known as
14 the "Under-Reporting Factor". While many reported adverse events are mild, about 15% of
15 total adverse events are found to be serious adverse events.⁹⁷

16
17
18
19 ⁹⁵ Physicians for Informed Consent (August 2021). *COVID-19 Disease Information*
20 *Statement*. <https://physiciansforinformedconsent.org/wp-content/uploads/2021/08/PIC-COVID-19-Disease-Information-Statement-DIS-August-2021.pdf>.

21 ⁹⁶ Lazarus, R et al. (2011). *Electronic Support for Public Health–Vaccine Adverse Event*
22 *Reporting System (ESP:VAERS)*. Agency for Healthcare Research and Quality (AHRQ).
23 <https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf>.

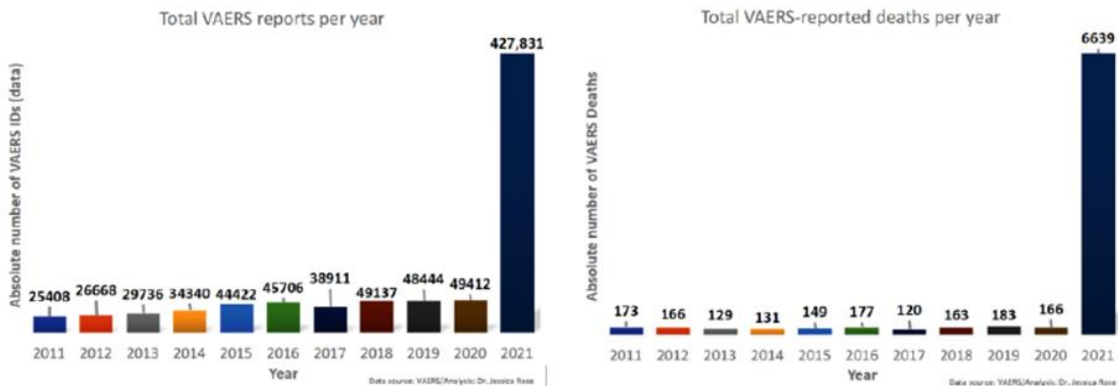
24 Kessler DA (1993). *Introducing MEDWatch. A new approach to reporting medication*
25 *and device adverse effects and product problems*. JAMA. 1993 Jun 2;269(21):2765-8.
26 <https://pubmed.ncbi.nlm.nih.gov/8492403/>.

27 Doshi, P (2017). The unofficial vaccine educators: are CDC funded non-profits
28 sufficiently independent? BMJ 2017; 359:j5104. <http://www.bmj.com/content/359/bmj.j5104>;
Miller, S (2017). *Response to article*. <https://www.bmj.com/content/359/bmj.j5104/rr-13>.

⁹⁷ HHS (2020). *VAERS Data Use Guide (Revised November 2020)*. VAERS.
https://vaers.hhs.gov/docs/VAERSDataUseGuide_November2020.pdf.

1 **78.** VAERS reports regarding the Covid-19 vaccines are unusually high.

2
3 **Figure 1: Bar plots showing the number of VAERS reports (left) and reported deaths (right) per year for**
4 **the past decade. (2021 is partial data set.)**



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10 **79.** Covid-19 vaccines are not traditional vaccines.⁹⁸ Instead they cause cells to
11 reproduce one portion of the SARS-CoV-2 virus, the spike protein. The vaccines thus induce
12 the body to create spike proteins. A person only creates antibodies against this one limited
13 portion (the spike protein) of the virus. This has several downstream deleterious effects.

14
15 **80.** First, these vaccines “mis-train” the immune system to recognize only a small
16 part of the virus (the spike protein). Variants that differ, even slightly, in this protein, such as
17 the Delta variant, are able to escape the narrow spectrum of antibodies created by the vaccines.

18 **81.** Second, the vaccines create “vaccine addicts,” meaning persons become
19 dependent upon regular booster shots, because they have been “vaccinated” only against a tiny
20 portion of a mutating virus. The Australian Health Minister Dr. Kerry Chant has stated that
21 Covid-19 will be with us forever and people will “have to get used to” taking vaccines
22 perpetually. “This will be a regular cycle of vaccination and revaccination.”⁹⁹

23 **82.** Third, the vaccines do not prevent infection in the nose and upper airways, and
24 vaccinated individuals have been shown to have much higher viral loads in these regions. This
25 leads to the vaccinated becoming “super-spreaders” as they are carrying extremely high viral

26
27 ⁹⁸ See footnote 44.

28 ⁹⁹ See footnote 49.

1 loads.¹⁰⁰ Parks Decl.

2 **83.** In addition, the vaccinated become more clinically ill than the unvaccinated.
3 Scotland reported that the infection fatality rate in the vaccinated is 3.3 times the unvaccinated
4 and the risk of death if hospitalized is 2.15 times the unvaccinated.¹⁰¹

5 **v. Effective Treatments are Available**

6 **84.** Ivermectin--a cheap, safe, widely available generic medication, whose precursor
7 won the Nobel Prize in Medicine in 2015--treats and cures SARS-CoV-2 infection, both while
8 in the early infectious stage and later stages.¹⁰² The evidence is both directly observed in
9 multiple randomized controlled trials and epidemiological evidence worldwide. There are now
10 more than sixty (60) studies demonstrating its efficacy as well as noting that nations that use
11 ivermectin see their death rates plummet to 1% of the death rates of nations that do not.

12 **85.** Hydroxychloroquine (HCQ) is a cheap, safe, widely available generic medication
13 used billions of times annually in all countries around the world including the United States. It
14 is typically prescribed for rheumatoid arthritis and lupus. HCQ treats and cures SARS-CoV-2
15 infection effectively in the early infectious stage. HCQ also provides substantial reduction in
16 mortality in later stages.¹⁰³ There are now more than 300 studies demonstrating its efficacy and
17 nations that use HCQ have 1-10% of the death rate of nations that do not. HCQ is on the
18 WHO's List of Essential Medications that all nations should always have available.
19 Chloroquine (an earlier version of HCQ) has been in continuous use for SARS-CoV-2 in
20

21 ¹⁰⁰ See footnote 2.

22 ¹⁰¹ Public Health Scotland (August 4, 2021). *Covid-19 Statistical Report as of 02 August*
23 *2021*. https://publichealthscotland.scot/media/8631/21-08-04-covid19-publication_report.pdf.

24 ¹⁰² Ivm-meta (November 5, 2021). *Ivermectin for COVID-19: Real-Time Meta Analysis of*
25 *65 Studies*. <https://ivmmeta.com/ivm-meta.pdf>.

26 ¹⁰³ HCQ Meta (November 5, 2021). *HCQ for COVID: Real-Time Meta Analysis of 296*
27 *Studies*. <https://hcqmeta.com/>; especially F. Taieb, et al. (October 2020). *Hydroxychloroquine*
28 *and Azithromycin Treatment of Hospitalized Patients Infected with SARS-CoC-2 in Senegal*
from March to October 2020, Papers on Early Treatment and Prophylaxis with HCQ, Vitamin
D, Zinc, Nitazoxanide, Ivermectin.

1 China since February 2020.

2 **86.** Budesonide, a cheap, safe, widely available generic inhaler medication used
3 commonly in the United States, typically for emphysema, effectively treats SARS-CoV-2
4 infection while in the early infectious stage.¹⁰⁴ This was published in The Lancet in April
5 2021.¹⁰⁵ The trial at ClinicalTrials.gov was stopped early because steroids were shown to be so
6 effective.

7 **87.** Monoclonal antibodies are approved for Covid-19 early treatment and are highly
8 effective and universally safe.

9 **88.** The evidence is overwhelming that low Vitamin D levels are linked to poor
10 outcomes in Covid-19.¹⁰⁶ Vitamin D therapies are being evaluated in trials by
11 ClinicalTrials.Gov.

12 **EMERGENCY USE AUTHORIZATION ITEMS CANNOT BE MANDATED**

13 **89.** Contrary to popular belief, all Covid-19 vaccines available to the Plaintiff are
14 still authorized only for emergency use.¹⁰⁷ And the federal law governing such authorization,
15 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(I-III), grants the patient explicitly “the option to accept or
16 refuse administration of the [EUA] product”.

17
18 ¹⁰⁴ Ramakrishnan, S et al. (February 8, 2021). *Budesonide Dosing for Outpatient COVID*
19 *per the Oxford RCT*, University of Oxford, England.
<https://www.medrxiv.org/content/10.1101/2021.02.04.21251134v1>.

20 ¹⁰⁵ Ramakrishnan, S et al. (July 1, 2021). *Inhaled Budesonide in the treatment of early*
21 *COVID-19 (STOIC): a phase 2, open-label randomized controlled trial*. *Respiratory Medicine*,
22 *The Lancet*, Vol 9, Issue 7, P763-772. [https://www.thelancet.com/article/S2213-2600\(21\)00160-0/fulltext](https://www.thelancet.com/article/S2213-2600(21)00160-0/fulltext).

23 ¹⁰⁶ Vassiliou, A et al. (December 2020). *Low 25-Hydroxyvitamin D Levels on Admission*
24 *to the Intensive Care Unit May Predispose COVID-19 Pneumonia Patients to a higher 28-Day*
25 *Mortality Risk: A Pilot Study on a Greek ICU Cohort*, National Library of Medicine, National
26 Institute of Health. <https://pubmed.ncbi.nlm.nih.gov/33316914/>.

27 Bychinin, M (August 7, 2021). *Low Circulating Vitamin D in Intensive Care Unit-*
28 *Admitted COVID-19 Patients as a Predictor of Negative Outcomes*. *J Nutr* 2021 Aug
7;151(8):2199-2205. <https://pubmed.ncbi.nlm.nih.gov/33982128/>.

¹⁰⁷ FDA (October 2021). *Comirnaty*. Vaccines, Blood, and Biologics.
<https://www.fda.gov/vaccines-blood-biologics/comirnaty>.

1 **90.** This is not mere semantics. ClinicalTrials.gov clearly states that the Moderna
2 clinical trials are ongoing through October 27, 2022,¹⁰⁸ and the Pfizer clinical trials are
3 ongoing through May 2, 2023.¹⁰⁹

4 **91.** Every FDA fact sheet for a Covid-19 vaccine available to Plaintiff states the
5 same disclaimer, “It is your choice to receive or not receive the [Pfizer-BioNTech, Moderna,
6 Janssen] COVID-19 Vaccine. Should you decide not to receive it, it will not change your
7 standard medical care.” This precise language is required by federal statute because available
8 Covid-19 vaccines are *not* FDA approved but rather are Emergency Use Authorization (EUA)
9 only.

10 **92.** The same precise statutory language also applies for all Covid-19 tests and face
11 coverings – they too are EUA and so pursuant to federal statute if an individual declines these
12 EUA products, it cannot change the individual’s standard medical care.

13 **93.** Plaintiff in this case declines all these EUA products and Administrator
14 Defendants openly threaten to disenroll them and remove their standard healthcare offered
15 through Student Health Center Services.¹¹⁰ Therefore, Administrator Defendants are openly
16 violating federal law (in a field preempted by federal law) in pursuit of Defendants’ highly
17 suspect ‘separate but equal’ campus segregation policies wherein students with natural
18 immunity are treated like second class citizens.

19
20 ¹⁰⁸ Moderna (updated June 10, 2021). *A Study to Evaluate Efficacy, Safety, and*
21 *Immunogenicity of mRNA-1273 Vaccine in Adults Aged 18 Years and Older to Prevent*
22 *COVID-19*. ClinicalTrials.gov Identifier: NCT04470427.
<https://clinicaltrials.gov/ct2/show/NCT04470427>.

23 ¹⁰⁹ Pfizer BioNTech SE (updated October 27, 2021). *Study to Describe the Safety,*
24 *Tolerability, Immunogenicity, and Efficacy of RNA Vaccine Candidates Against COVID-19 in*
25 *Healthy Individuals*. ClinicalTrials.gov Identifier: NCT04368728.
<https://clinicaltrials.gov/ct2/show/NCT04368728>.

26 ¹¹⁰ See e.g., University of Nevada, Reno (November 5, 2021). *Insurance and Fees.*
27 *Student Health Center.* [https://med.unr.edu/student-health-center/welcome/insurance-and-](https://med.unr.edu/student-health-center/welcome/insurance-and-fees)
28 [fees](https://med.unr.edu/student-health-center/welcome/insurance-and-fees) (“If you have paid your student health fee, there is no charge for your primary care office
visit... If you are enrolled in 1 or more credits, you have automatically been assessed the
Student Health Fee.”)

1 **94.** Nowhere in an FDA fact sheet for vaccines, face masks, or Covid-19 tests, does
2 it specify that a person may be denied education, denied student health services, disciplined,
3 required to seek religious belief accommodation, or otherwise discriminated against for
4 refusal. Nor does any fact sheet state that people declining will thus be forced to use additional
5 EUA products.

6 **95.** It is a statistical certainty that a person who is Covid recovered is **not** at risk of
7 reacquiring Covid. Yeadon Decl. But should such a person undergo repeated PCR testing at a
8 lab which uses a cycle threshold >30, it is inevitable that sooner or later this person will have a
9 false positive result. Kammerer Decl. The popular commercial labs near UNR use a Ct >40,
10 guaranteeing false results. A false positive result will force the Plaintiff into a wholly
11 unnecessary and punitive quarantine which is very punitive for a person living on campus.

12 **96.** It is perverse that a Covid-19 Recovered unvaccinated student who is at zero
13 risk of reinfection but a vaccinated student without natural immunity who is at high risk of
14 what is euphemistically called “breakthrough” (it’s not “breaking through” anything – the
15 shots simply don’t stop transmission) infection does not have to be tested. Naturally immune
16 students are the class of persons who are least likely to transmit the virus to others. Vaccinated
17 students are more likely to transmit the virus to others.¹¹¹ This type of segregation is apartheid,
18 plain and simple. It is unequal application of the law, and a violation of the Equal Protection
19 clause.

20 **JACOBSON IS NOT RELEVANT PRECEDENT, AS COVID VACCINES DO NOT**
21 **PREVENT THE SPREAD OF CONTAGIOUS DISEASE AND ARE PERSONAL**
22 **TREATMENT ONLY, STRICT SCRUTINY APPLIES**

23 **97.** The presumption of some courts that vaccine mandates are subject to a
24 deferential review traces its roots to *Jacobson*. See e.g., *Roman Catholic Diocese v. Cuomo*,
25 141 S Ct 63, 70-71 (2020) (Gorsuch and Kavanaugh concurrences). While it is arguable

26 ¹¹¹ Keehner, J et al (2021). *Resurgence of SARS-CoV-2 Infection in Highly Vaccinated*
27 *Health System Workforce*. N Engl J Med 2021; 385:1330-1332.
28 <https://www.nejm.org/doi/full/10.1056/NEJMc2112981>.

1 whether *Jacobson* really established a deferential standard, *Id.*¹¹² it is clear that Jacobson was
2 addressed to a vaccine “**adapted to prevent the spread of contagious diseases[.]**” (emphasis
3 added) *Jacobson, supra*, 197 US at 35.

4 **98.** Accordingly, courts that have found Covid-19 “vaccine” mandates are subject
5 to more lenient scrutiny have done so on the mistaken assumption that the Covid “vaccines”
6 being mandated “prevent the spread of Covid-19[.]” See e.g., *Norris v. Stanley*, No. 1:21-cv-
7 756, 2021 US Dist LEXIS 198388, at *10 (WD Mich Oct. 8, 2021), see also *Valdez v.*
8 *Grisham*, No. 21-cv-783 MV/JHR, 2021 US Dist LEXIS 173680, at *6 (DNM Sep. 13, 2021)
9 (“the refusal to receive the Covid-19 vaccine not only endangers the individual but the entire
10 community[.]”).

11 **99.** Unlike *Jacobson*’s smallpox vaccines, it is universally acknowledged by all
12 credible scientific experts, that the Covid-19 injections do not stop the transmission or
13 acquisition of the virus that causes Covid-19. Strict scrutiny due to forced treatment is
14 appropriate.

15 **100.** The right to refuse treatment is a fundamental right subject to strict scrutiny and
16 as such the Defendant’s vaccine mandate must be struck down unless it is narrowly tailored to
17 serve a compelling state interest, *Gateway City Church v. Newsom*, 516 F Supp 3d 1004, 1017
18 (ND Cal 2021), and “advance[s] [that] compelling state interest by the least restrictive means
19 available.” *Bernal v. Fainter*, 467 U.S. 216, 219 (1984).

20 **101.** Defendant’s mandate is not narrowly tailored, both because less restrictive
21 alternatives are available, and because it applies to individuals who have natural immunity.
22 “Governmental actions that infringe upon a fundamental right receive strict scrutiny.” *Fields v.*
23 *Palmdale Sch. Dist.*, 427 F.3d 1197, 1208 (9th Cir. 2005), as amended by 447 F.3d 1187 (9th
24 Cir. 2006). Accordingly, Defendants’ vaccine mandate is subject to strict scrutiny and must be

25
26 ¹¹² In *Jacobson*, individuals could accept the vaccine, pay the fine, or identify a basis for
27 exemption. The imposition on Mr. Jacobson’s claimed right to bodily integrity, thus, was
28 avoidable and relatively modest. It easily survived rational basis review, and might even have
survived strict scrutiny, given the opt-outs available to certain objectors.

1 struck down unless it “advance[s] a compelling state interest by the least restrictive means
2 available.” *Bernal v. Fainter*, 467 U.S. 216, 219 (1984); *see also, Sable Commc’ns of Cal. v.*
3 *FCC*, 492 U.S. 115, 126 (1989). Defendants’ mandates are not narrowly tailored both because
4 less restrictive means of accomplishing the same goals are available, and because the mandates
5 apply to individuals who have natural immunity.

6 **102.** The Attorney General for the State of Arizona is also requesting strict scrutiny
7 in pending litigation challenging President Biden’s Covid-19 vaccine mandate for federal
8 employees and contractors. *See Arizona v. Biden*. No. 2:21-cv-01568-MTL (United States
9 District Court, District of Arizona), Dkt. 34 (Request for TRO), pages 36-38. *See also*
10 emerging legal precedents applying strict scrutiny to Covid-19 vaccine mandates:

- 11 **a.** *Magliulo v. Edward Via Coll. of Osteopathic Med.*, No. 3:21-CV-2304, 2021
12 U.S. Dist. LEXIS 159265, at *18 (W.D. La. Aug. 17, 2021) (agreeing with
13 State attorney general and granting TRO for student challenging college
14 vaccine mandate because “VCOM can likely show a compelling state interest
15 (safety of students, employees, and patients), but is unlikely to meet the second
16 prong, that it used the least restrictive means of compelling that interest.”)
- 17 **b.** *Dahl v. Bd. of Trs. of W. Mich. Univ.*, No. 1:21-cv-757, 2021 U.S. Dist. LEXIS
18 167041, at *5 (W.D. Mich. Aug. 31, 2021) (granting TRO for student
19 challenging college vaccine mandate because “Plaintiffs have established a
20 likelihood of success on the merits of the Free Exercise Claims. Plaintiffs have
21 established that WMU’s vaccination requirement is subject to strict scrutiny.”)

22 **103.** Many state courts are also applying strict scrutiny. *See e.g., Michalski et al. v.*
23 *St. John Fisher College, et al.* (State of New York, Supreme Court: County of Onondaga,
24 Index No. 8063/2021). Emergency Order to Show Cause With Temporary Restraining Order,
25 dated September 21, 2021 (granting TRO and Burden Shifting for students asserting strict
26 scrutiny in challenge to college vaccine mandate); *Friend et al. v. City of Gainesville* (State of
27 Florida, Circuit Court: Alachua County, Case No. 01-2021-CA-2412). Order Granting
28

1 Plaintiffs' Petition for Temporary Injunction, dated September 22, 2021 (applying strict
2 scrutiny to grant TRO for city employees challenging city's vaccine mandate).

3
4 **IF JACOBSON IS RELEVANT, THE LEGAL STANDARD OF PROTECTING THE**
5 **PUBLIC HEALTH IS NOT MET AND THE IMPLICIT SACRIFICE OF THE**
6 **INDIVIDUAL TO THE COLLECTIVE IS ARCHAIC**

7 **104.** *Jacobson* provides that a mandate "enacted to protect the public health" will be
8 struck down as unconstitutional if it "has no real or substantial relation to those objects, or is,
9 beyond all question, a plain, palpable invasion of rights secured by the fundamental law[.]"
10 *Jacobson*, 197 U.S. at 31. *Jacobson* held that to the extent the government should be given
11 deference, it was only if the vaccine reduced the spread of contagious disease and also
12 protected public health without unreasonable risk of harm to the individual. That is not the
13 instant situation on either element.

14 **105.** All experts, including the CDC, state that the Covid-19 vaccines do not stop the
15 spread of Covid-19. As there is no causal relationship between the mandate (shots) and the
16 protection of public health (lest everything under the sun becomes a matter of public health),
17 we are left only with a palpable invasion of fundamental rights and forced acceptance of
18 known and unknown risks. And on top of that invasion of rights, Plaintiff's evidence shows
19 Covid-19 vaccination actively harms public health.

20 **106.** *Jacobson* has been utilized by courts to treat vaccination differently than other
21 drugs. *Jacobson* concerned a smallpox outbreak in Massachusetts around 1900. In a 7-2
22 decision applying the 14th Amendment to an individual born in Sweden who immigrated to the
23 United States, the *Jacobson* Court upheld the right of local public health authorities to require
24 that persons over age 21 who were fit subjects for vaccination either (1) submit to vaccination,
25 (2) pay a \$5 fine to avoid vaccination, or (3) leave the jurisdiction. Given the practical options
26 available to avoiding forced medical treatment (i.e., paying a fine or leaving the jurisdiction),
27 the case has been cited both in favor of forced medical treatment, and against it. What is
28 certain is that later cases upholding *Jacobson* also upheld forced sterilization of human beings.

1 *Buck v. Bell*, 274 U.S. 200 (1927) (later overturned). *Jacobson* was decided decades prior to
 2 the more enlightened SCOTUS findings of Constitutional bodily privacy rights, and well
 3 before the days of strict scrutiny analysis.¹¹³

4 **107.** *Jacobson* has been referenced to justify the sacrifice of the individual’s body
 5 for the perceived benefit of the masses. Indeed, the official syllabus to *Jacobson* refers to
 6 “sacrifice” explicitly, “That the legislature has large discretion to determine what personal
 7 sacrifice the public health, morals and safety require from individuals is elementary.”
 8 *Jacobson, supra*, 197 U.S. at 22. Compelled sacrifice under *Jacobson* has increasingly been
 9 found archaic.

10 **108.** To be perfectly clear, one hundred and fifteen years after *Jacobson*, the law
 11 and justice confirm that the government does not have the right to sacrifice an individual, in
 12 this case, one Jonah Gold. And Plaintiff requests declaratory relief stating exactly that fact.

13 **109.** “No right is held more sacred, or is more carefully guarded, by the common
 14 law, than the right of every individual to the possession and control of his own person, free
 15 from all restraint or interference of others, unless by clear and unquestionable authority of law.
 16 As well said by Judge Cooley, ‘The right to one’s person may be said to be a right of complete
 17 immunity: to be let alone.’” *Union P. R. Co. v. Botsford*, 141 U.S. 250, 251 (1891).

18 //

19 //

20 //

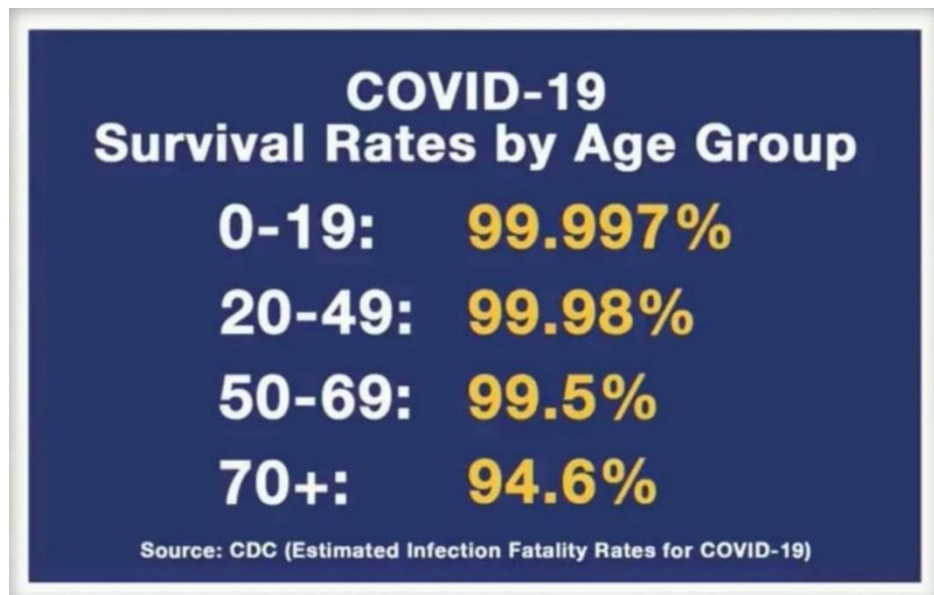
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23
 24 ¹¹³ *Roman Catholic Diocese v. Cuomo*, No. 20A87, 2020 U.S. LEXIS 5708, at *16 (Nov.
 25 25, 2020) (Justice Gorsuch concurring, “Why have some mistaken this Court’s modest
 26 decision in *Jacobson* for a towering authority that overshadows the Constitution during a
 27 pandemic? In the end, I can only surmise that much of the answer lies in a particular judicial
 28 impulse to stay out of the way in times of crisis. But if that impulse may be understandable or
 even admirable in other circumstances, we may not shelter in place when the Constitution is
 under attack. Things never go well when we do.”)

**IF JACOBSON IS RELEVANT, THE FACTS IN THE INSTANT CASE ARE
DISTINGUISHED**

1
2 **110.** It was foundational to *Jacobson* that the vaccine was to halt the transmission of
3 a virus with 30% mortality. In contrast, Covid-19 has 99.997% survivability in plaintiff age
4 group and >99.6% survivability overall for the American population of all ages.¹¹⁴ The
5 average age of death from Covid exceeds a person's life expectancy (age 82 vs. age 79.) It is
6 manifestly unjust and unlawful to compel the sacrifice of young people, especially in order to
7 hypothetically protect individuals already exceeding average life expectancy.



18 **111.** And it cannot be whitewashed that modern vaccination is nothing like
19 traditional vaccines which relied on decades old technology and the attenuated virus itself. In
20 contrast, the modern Covid-19 vaccine relies on aborted tissue samples, DNA manipulation,
21 and technology that has never been used in vaccines. Indeed, as the US Supreme Court had
22 cautioned only three years earlier, “[i]t should ever be the care of courts of justice to
23 guard human life and liberty against being sacrificed by public prejudice or excitement.”

24

25 ¹¹⁴ Plaintiff just turned 18, his risk is the 0–18-year-old. Reese, H. et al (November 25,
26 2020). *Estimated Incidence of Coronavirus Disease 2019 (COVID-19) Illness and
Hospitalization—United States, February–September 2020*. *Clinical Infectious Diseases*,
27 Volume 72, Issue 12, 15 June 2021, Pages e1010–e1017. <https://doi.org/10.1093/cid/ciaa1780>.
US Centers for Disease Control and Prevention (2021). *Weekly updates by select demographic
28 and geographic characteristics: provisional death counts for coronavirus disease (COVID-
19)*. https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm#AgeAndSex.

1 *Dreyer v. Ill.*, 187 U.S. 71, 76 (1902).

2 **112.** These technologies were unknown to the 1905 Supreme Court. Plaintiff submits
3 this biotechnology revolution cannot be ignored. The time has already come to remember
4 Justice Harlan’s caveat on his 1905 case holding in *Jacobson*, “There is, of course, a sphere
5 within which the individual may assert the supremacy of his own will, and rightfully dispute
6 the authority of any human government, especially of any free government existing under a
7 written constitution, to interfere with the exercise of that will.” *Jacobson, supra*, at 29.

8 **113.** Unlike their other medicinal products¹¹⁵ (for which pharmaceutical companies
9 have paid hundreds of billions of dollars in tort claims), vaccines are shielded from liability.
10 Big Pharma is financially incentivized to mislabel their products as vaccines to avoid the
11 proper level of both medical and judicial scrutiny. As stated above, these products are
12 classified by the FDA as therapeutics in the category of “CBER-Regulated Biologics”.¹¹⁶ It is
13 marketing that has permitted the use of the word vaccine and marketing is not a judicial
14 standard. The overwhelming economic power and political influence includes a revolving door
15 with public health officials writing the rules regarding the biotech from which they profit.

16 **114.** Just one example is that since its founding, Moderna has had 44 straight
17 quarters of financial losses, but for the first time ever became profitable in Q2 2021 and
18
19
20

21 ¹¹⁵ See e.g., *McCormick v. Stalder*, 105 F.3d 1059, 1061-62 (5th Cir. 1997)
22 (citing *Jacobson* and applying strict scrutiny to a prisoner’s right to decline medical treatment
23 that would prevent the spread of tuberculosis, a highly contagious disease). As prisoners are
24 afforded strict scrutiny review for declining personal medical treatment that prevents
25 transmission of a contagious disease, certainly free Americans must be afforded the highest
level of scrutiny for declining personal medical treatment that does *not* prevent transmission of
a contagious disease.

26 ¹¹⁶ FDA (2021). *Coronavirus (COVID-19) | CBER-Regulated Biologics*.
27 <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologic>.
28

1 reached 4.4B revenues and \$2.8B earnings.^{117, 118} Of course, last year's FDA Chief (the single
 2 person most responsible for permitting the vaccines to come to market years ahead of schedule
 3 by denying early treatment exists) is this year's Moderna's Venture Capital Chief Medical
 4 Officer.¹¹⁹

5 **115.** Covid-19 is not Big Pharma's first catastrophe, but it will be its most televised.
 6 Consider that President Ford halted the premature rollout of the Swine Flu vaccine due to 50
 7 unexpected deaths; Covid vaccines deaths now exceed, conservatively, 10,000. *Jacobson* was
 8 not intended to become an open door to unlimited technological advancements so long as the
 9 government attaches its (mis)behavior to the word "vaccine".

10 **FIRST CAUSE OF ACTION AGAINST DEFENDANTS**
 11 **Violation of the Fourteenth Amendment**
 12 **Substantive Due Process Pursuant to 42 USC § 1983**

13 **116.** Plaintiff refers to all paragraphs stated above and realleges all matters contained
 14 therein as though fully set forth at this place.

15 **117.** Defendants' vaccine mandates, together with the Defendant College Parties'
 16 additional bodily intrusion mandates based expressly thereon (namely forced testing and
 17 masking), violate the liberty protected by the Fourteenth Amendment to the U.S. Constitution,
 18 which includes the right of self-determination, personal autonomy and bodily integrity, as well
 19 as the right to reject medical treatment.

20 **118.** The ability to decide whether to accept or refuse medical treatment is a
 21 fundamental right. As mandated medical treatments are a substantial burden, Defendant must

22 ¹¹⁷ United States Securities and Exchange Commission (August 6, 2020). *Moderna Form*
 23 *10Q*. <https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm>.

24 ¹¹⁸ Moderna (August 5, 2021). *Moderna Reports Second Quarter Fiscal Year*
 25 *2021 Financial Results and Provides Business Updates*. Press Release.
 26 <https://investors.modernatx.com/news-releases/news-release-details/moderna-reports-second-quarter-fiscal-year-2021-financial>.

27 ¹¹⁹ Diamond, D (June 14, 2021). *Trump's FDA commissioner takes job at Moderna*
 28 *backer*. Washington Post.
<https://www.washingtonpost.com/health/2021/06/14/hahn-job-talks-flagship/>.

1 prove that their mandates are narrowly tailored to meet a compelling interest.

2 **119.** No such compelling interest exists because, as alleged above, the Covid-19
3 vaccines are not effective against the now dominant Delta variant of Covid-19 in that they do
4 not prevent the recipient from becoming infected, getting reinfected, or transmitting Covid-19
5 to others. Indeed, evidence shows that vaccinated individuals have more Covid-19 in their
6 nasal passages than unvaccinated people do, and vaccinated people are more likely to spread
7 Covid-19. The Delta variant is the current variant and accounts for over 99% of the Covid
8 infections in the United States at this time.

9 **120.** But even if one assumed there was a compelling interest in mandating the
10 Covid-19 vaccinations, the mandates are not narrowly tailored to achieve such an interest. The
11 blanket mandates ignore individual factors increasing or decreasing the risks that the
12 plaintiff—indeed, all students—pose to himself or to others. The Covid-19 Recovered student
13 poses the least risk of any person, far less than the vaccinated who is not Covid-19 Recovered.

14 **121.** “It cannot be disputed that the Due Process Clause protects an interest in life as
15 well as an interest in refusing [] medical treatment.” *Cruzan v Director, Missouri Dept of*
16 *Health* (1990) 497 US 261, 279. In *Washington v. Harper*, 494 U.S. 210, 221-22, the Supreme
17 Court stated “The forcible injection of medication into a nonconsenting person's body
18 represents a substantial interference with that person's liberty. Cf. *Winston v. Lee*, 470 U.S. 75
19 (1985); *Schmerber v. California*, 384 U.S. 757, 772 (1966).” Federal courts have long
20 maintained that strict scrutiny even applies to non-dangerous prisoners and detainees when
21 government attempts to inject them with medication. See e.g., *United States v. Brandon*, 158
22 F.3d 947 (6th Cir. 1998). And strict scrutiny is currently being applied to Covid-19 vaccine
23 mandates in an increasing number of jurisdictions within the US.

24 **122.** Plaintiff is the only competent person able to provide consent/refusal to the
25 injection of Covid-19 vaccines into himself. Neither Defendants nor third parties (such as the
26 FDA) are able to provide such consent/refusal on behalf of Plaintiff, nor can Defendants or
27 third parties waive Plaintiff's rights to informed refusal of Covid-19 vaccines. Because
28

1 Defendants have mandated that consent to injection of a Covid-19 vaccine is a condition of
2 Plaintiff’s ongoing college participation (and, hence, livelihood), Plaintiff’s fundamental rights
3 are in jeopardy. Plaintiff seeks declaratory relief to clarify his rights, and thereby prevent
4 immediate harm.

5 **123.** Defendants’ vaccine mandate is a “vaccine” mandate in name only. Merely
6 asserting the branding “vaccine” does not implicate the *Jacobson* analysis to “prevent the
7 spread of contagious diseases[.]” *Jacobson, supra*, 197 US at 35. The Covid-19 vaccine “has
8 no real or substantial relation” to protecting public health because according to all credible
9 scientific experts the Covid-19 vaccine neither prevents individuals from getting nor spreading
10 Covid-19. Defendants’ vaccine mandates violate Plaintiff’s constitutional right to decisional
11 privacy with regard to medical treatment.

12 **124.** The Covid-19 vaccines may have been somewhat effective against the original
13 Covid-19 strain, but that strain has come and gone, and the Covid-19 vaccines—designed to
14 fight yesterday’s threat—are simply ineffective against today’s Delta variant. Since the Covid-
15 19 vaccines are ineffective against the Delta variant, there can be no compelling interest to
16 mandate their use at this time.

17 **125.** Abundant scientific medical evidence exists showing that this vaccination is
18 known to be extraordinarily risky when judged by vaccine standards. VAERS already reports
19 7,674 deaths with the COVID treatments in the first ten months. For the previous 30 years,
20 VAERS reported only half that total number (3,885), so Covid-19 vaccination represents a
21 sudden 61 times increase.¹²⁰

22 **126.** Plaintiff highlights this to emphasize that, in the strict scrutiny balancing test,
23 the burden of proof must belong on the party calling for the medical intervention, or the
24 deviation from the normal process, and all the more so if the medical intervention is brand
25 new.

26 **127.** Defendants’ policies to treat unvaccinated Covid-19 Recovered persons as

27 ¹²⁰ CDC (2021). *Covid-19: Vaccine Adverse Event Reporting System*.
28 <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/vaers.html>.

1 second-class citizens, on penalty of exclusion from campus activities including in person
2 classes, causes daily and increasing harm, including inability to proceed with a normal
3 education in a timely manner, to navigate the campus free from segregation based upon
4 medical condition and genetic status, and to proceed in his daily life without subjection to
5 other intolerable bodily intrusions. Defendant requires invasive testing of Covid-19 Recovered
6 unvaccinated students at zero risk of infection. This violates the Due Process Clause.

7 **128.** Plaintiff seeks declaratory relief that

- 8 a. Defendants' unscientific decision to reject Prescreening science, in order to
9 unscientifically propagate Defendants' one-size-fits-all vaccine mandate,
10 imminently threatens the life of Plaintiff, and others, and unlawfully segregates
11 Plaintiff based on his Covid-19 Recovered medical condition and natural
12 genetic status, which is an unlawful infringement by Defendants upon
13 Plaintiff's constitutional rights, that places Plaintiff's life and public health in
14 jeopardy.
- 15 b. Defendants do not possess clear and unquestionable authority of law to require
16 that Plaintiff be injected with biotechnology as a public health sacrifice, and
- 17 c. Applied to Plaintiff, Defendants' vaccine mandate violates, and is preempted
18 by, federal law governing emergency use authorization; and Defendants shall
19 not mandate other EUA products, such as testing and face coverings, upon
20 Plaintiff for his lawful exercise of his right to decline an EUA vaccine.

21 **129.** Pursuant to 42 U.S.C. § 1983, Plaintiff is entitled to temporary, preliminary,
22 and permanent injunctive relief restraining all Defendants from enforcing their vaccine
23 mandates, and restraining Defendant College Parties from enforcing their additional bodily
24 intrusion mandates based expressly thereon (namely forced testing and masking).

25 **SECOND CAUSE OF ACTION AGAINST DEFENDANTS**
26 **Violation of the Fourteenth Amendment**
27 **Equal Protection Clause Pursuant to 42 USC § 1983**

28 **130.** Plaintiff refers to all paragraphs stated above and realleges all matters contained

1 therein as though fully set forth at this place.

2 **131.** The Equal Protection Clause prohibits classifications that affect some groups of
3 citizens differently than others. *Engquist v. Or. Dept. of Agric.*, 553 U.S. 591, 601 (2008). The
4 touchstone of this analysis is whether a state creates disparity between classes of individuals
5 whose situations are arguably indistinguishable. *Ross v. Moffitt*, 417 U.S. 600, 609 (1974).

6 **132.** Defendants' vaccine mandates create two classes of students: vaccinated and
7 unvaccinated. The members of one class, the unvaccinated, get treated in a punitive way,
8 unable to enjoy normal campus life, activities and schooling and subjected to irrational testing
9 and masking. The other class, the vaccinated, gets to enjoy all the normal rights and privileges.

10 **133.** This is despite the fact that the situations of these students are indistinguishable
11 from each other, because vaccinated students can become infected with Covid-19 and can
12 transmit Covid-19 to any other person, vaccinated or not, who is not already Covid-19
13 Recovered. The vaccines make no difference in this respect. Their only claimed function is to
14 make symptoms less severe.

15 **134.** This actual controversy between Defendants and Plaintiff centers upon the life
16 and health of a Covid-19 Recovered person who is entitled to equal protection under the law.

17 **135.** Plaintiff seeks declaratory relief that:

18 (a) Defendants' vaccine mandate rejecting prescreening is an unscientific and unlawful
19 infringement upon Plaintiff's constitutional rights of equal protection under the law,

20 (b) Defendants have asserted in published documents that there is no need to screen
21 individuals before receiving Covid-19 vaccines as Defendants claim the vaccines are safe for
22 administration to such people, despite the lack of any testing of said individuals as part of the
23 various trials regarding the various vaccines.

24 (c) Prescreening can be accomplished in exactly the same way as for all other viruses,
25 by clinical definition, and by blood immunity test where indicated. (It is to be noted that
26 physician members of Congress specifically endorse such immunity testing as lifesaving.)

27 (d) Defendants' policy is a gross departure from their own long-standing vaccination
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1 policy to reduce life-threatening harm by Prescreening and that this gross departure is
2 exacerbated due to the fact that the Covid-19 vaccines have been marketed years or decades
3 ahead of schedule, bypassing safety steps that can only be performed sequentially.

4 (e) Abundant scientific medical evidence exists showing that the vaccination of
5 individuals who have had the virus and have recovered or who currently have the virus, will
6 result in serious health issues, including death to certain individuals, and that due process
7 considerations require allowance for Prescreening, in order to protect the lives and health of
8 said individuals.

9 (f) Defendants' vaccine mandate that unscientifically rejects Prescreening is the direct
10 cause for the immediate and unnecessary threat of injury and death to Plaintiff.

11 (g) Defendants are engaged in a pattern of downplaying and suppressing information
12 that Covid-19 vaccination does not prevent SARS-CoV-2 infection or transmission, and that
13 Covid-19 vaccines are *particularly* harmful for college aged young men. The hallmark of
14 Defendants' propaganda is Defendants' failure to cite credible data in support of the
15 propaganda, but rather to rely upon a 'quasi pyramid scheme' or 'echo chamber' of continual
16 deference to authority that also fails to cite credible data in support of the propaganda.

17 (h) Defendants' policies to treat unvaccinated Covid-19 Recovered persons as second-
18 class citizens is a violation of the Equal Protection Clause. Defendant College Parties require
19 testing of Covid-19 Recovered unvaccinated students at zero risk of reinfection, but vaccinated
20 students without natural immunity at high risk of what is called "breakthrough" infection do
21 not have to be tested. This unequal application of the law violates the Equal Protection Clause.

22 **136.** Discriminating against the unvaccinated controverts the goals of the Equal
23 Protection Clause – i.e., to abolish barriers presenting unreasonable obstacles to advancement
24 on the basis of individual merit.

25 **137.** Defendants entirely disregard whether students have already obtained natural
26 immunity despite the fact that natural immunity does actually provide immunity whereas the
27 Covid-19 vaccines do not. Such knowing disregard demonstrates discriminatory intent.

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1 of reacquiring Covid-19. Should Plaintiff undergo regular Covid-19 testing he is at very high
2 likelihood of being forced into unnecessary and punitive quarantine. It is thus wholly irrational
3 for him to undergo such testing, however Defendants force this for Plaintiff to live a normal
4 student life.

5 (b) Defendants utilize their positions of power over Plaintiff to threaten contact tracing,
6 quarantine, and isolation techniques if any of Defendants' unlawful tests come back positive
7 using the undisclosed criteria that Defendants pre-instruct the laboratories selected by
8 Defendants. Defendants have been repeatedly cautioned that PCR and similar lab tests
9 routinely return false positives, but Defendants are committed to invading the privacy of
10 Group B students.

11 **143.** Defendants' conduct alleged herein is a direct and proximate cause of
12 Plaintiff's loss of privacy, the right to be secure in his person, papers, and effects.

13 **144.** Unless Defendants are enjoined, Plaintiff will be irreparably harmed, which
14 harm includes, but not by way of limitation, bodily injury, false imprisonment, and the loss of
15 fundamental State and Federal constitutionally protected rights.

16 **REQUEST FOR RELIEF**

17 **145.** Plaintiff requests the Court grant the following relief:

18 **A.** Issue an order to show cause shifting the burden to Defendants to prove that (1)
19 Defendants' decision to reject scientifically accepted Prescreening meets a compelling State
20 interest, and that such decision to reject accepted prescreening science is narrowly tailored to
21 avoid unnecessary infringement upon Plaintiff's constitutional rights, and (2) Defendants'
22 mandates upon Plaintiff that changes his standard medical care when he declines Covid-19
23 products is not a violation of Federal law warranting injunctive relief.

24 **B.** Issue a declaratory judgment as requested in paragraphs 128 and 135.

25 **C.** Issue a temporary restraining order, preliminary injunction, and permanent
26 injunction, to restrain Defendants' from utilizing the discredited tools of coercion and
27 segregation of natural/unvaccinated peoples in violation of federal law, including but not
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1 limited to Defendants’ unscientific one-size-fits-all vaccine mandate, where Defendants reject
2 scientifically accepted Prescreening, and, therefore, place Plaintiff’s life and public health in
3 jeopardy.

4 **D.** Issue a temporary restraining order, preliminary injunction, and permanent
5 injunction, to restrain Defendants’ from violating Plaintiff’s Constitutional right to bodily
6 autonomy, bodily integrity, bodily sovereignty, due to the fact that Defendants’ mandates are
7 mislabeled as “public health” measures when in fact all experts agree that the Covid-19
8 vaccines do not reduce transmission of the virus but may both reduce personal symptoms and
9 increase personal risk, and there is no legal authority to mandate personal treatment only.

10 **E.** Issue an order awarding Plaintiff costs of suit and reasonable attorneys’ fees
11 and expenses.

12 **F.** Issue such other and further relief as this Court deems equitable and just.

13 Dated: November 8, 2021

/s/ Adam Fulton

14 _____
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