

No. 24-752

---

---

In the  
**Supreme Court of the United States**

---

PAUL THOMAS, MD,  
*Petitioner,*

*v.*

KATHLEEN HARDER, MD, *et al.*,  
*Respondents.*

---

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

---

◆  
***Amici Curiae* Brief of America's Frontline  
Doctors and Dr. Simone Gold, M.D., J.D., in  
Support of Petitioner for Reversal**

---

DR. SIMONE GOLD, M.D., J.D.  
DAVID A. DALIA  
Attorney at Law  
*Counsel of Record*  
700 Camp Street  
New Orleans, LA 70130  
(504) 524-5541  
davidadalia@gmail.com

*Counsel for Amici Curiae*

---

---

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... ii

A MATTER OF GREAT PUBLIC IMPORTANCE.....1

INTEREST OF *AMICI CURIAE* .....2

SUMMARY OF ARGUMENT .....4

ARGUMENT.....8

    A. The Ninth Circuit committed reversible error by extending absolute, *quasi*-judicial immunity to Oregon Medical Board members and investigators, contrary to this Court’s precedents and the rulings in many other circuits which have correctly applied this Court’s precedents. ....8

    B. Dr. Thomas’ peer-reviewed study of the health outcomes of childhood vaccination is accurate and consistent with recent scientific research, and critical to the informed consent rights of his patients. Doctors should never be persecuted by medical boards for conducting accurate medical research. ....10

CONCLUSION.....24

**TABLE OF AUTHORITIES**

**CASES**

*Adam Cmty. Ctr. v. City of Troy*, Case No.  
18-13481 (E.D. Mich. 2019) ..... 9

*Butz v. Economou*,  
438 U.S. 478 (1978)..... 5, 7, 8

*Canterbury v. Spence*,  
464 F.2d 772 (1972)..... 23

*Cobbs v. Grant*,  
8 Cal.3d 229 (1972) ..... 23

*Cruzan v. Director, Missouri Dept. of Health*,  
497 U.S. 261 (1990)..... 22

*Doe #1 v. Rumsfeld*,  
297 F. Supp. 2d 119 (D.D.C. 2003)..... 23

*Downer v. Veilleux*,  
322 A.2d 82 (Me. 1974) ..... 23

*Forrester v. White*,  
484 U.S. 219 (1988)..... 5, 7, 8

*Geness v. Pennsylvania*,  
388 F.Supp.3d 530 (W.D. Pa. 2019) ..... 9

*Harris v Harvey*,  
605 F.2d 330 (7th Cir. 1979)..... 5

*Table of Authorities*

<i>In re Guardianship of Roe,</i> 383 Mass. 415 (1981).....	23
<i>Lonzetta Trucking &amp; Excavating Co. v. Schan,</i> 144 F. App'x 206 (3d Cir. 2005) .....	9
<i>Mills v. Rogers,</i> 457 U.S. 291 (1982) .....	23
<i>Riggins v. Nevada,</i> 504 U.S. 127 (1992) .....	23
<i>Schloendorff v. Society of New York Hospital,</i> 211 N.Y. 125 (1914).....	22
<i>Sell v. United States,</i> 539 U.S. 166 (2003) .....	23
<i>Stewart v. Baldwin Cnty. Bd. of Educ.,</i> 908 F.2d 1499 (11th Cir. 1990) .....	9
<i>Supreme Court of Virginia v. Consumers Union,</i> 446 U.S. 719 (1980) .....	5
<i>Turner v. Houma Mun. Fire and Police Civil Service Bd.,</i> 229 F.3d 478 (5th Cir. 2000) .....	9
<i>Vacco v. Quill,</i> 521 U.S. 793 (1997) .....	23
<i>VanHorn v. Oelschlager,</i> 502 F.3d 775 (8th Cir. 2007) .....	9

*Table of Authorities*

*Washington v. Glucksberg*,  
521 U.S. 702, 720 (1990)..... 5, 23

*Washington v. Harper*,  
494 U.S. 210 (1990)..... 23

**STATUTES AND REGULATIONS**

Americans With Disabilities Act,  
42 U.S.C. § 12101 *et seq.*..... 9

42 U.S.C. § 300aa-1 ..... 20

21 U.S.C. § 360bbb-3 ..... 20, 21

21 C.F.R. § 50:20 ..... 21

21 C.F.R. § 50:25 ..... 21

45 C.F.R. § 46 ..... 21

45 C.F.R. § 46.116 ..... 21

ORS 431.180 ..... 5, 7

ORS 127.649(1)(a)(A) ..... 5, 7

ORS 433.267(1)(C)..... 5, 7

Nuremberg Code ..... 21

*Table of Authorities*

**OTHER AUTHORITIES**

- Adams, P., *et al.* “Who Are These COVID-19 Vaccine Skeptics and What Do They Believe?” *Epoch Times* (October 20,2021). [https://www.theepochtimes.com/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe\\_4043094.html](https://www.theepochtimes.com/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe_4043094.html)..... 18
- Al-Arshani, S. “Moderna’s chief medical officer says that vaccine trial results only show that they prevent people from getting sick– not necessarily that recipients won’t still be able to transmit the virus.” *Business Insider* (November 2020) <https://www.businessinsider.com/moderna-chief-medical-officer-vaccines-interview-2020-11>..... 19
- Allen, R. “Oxford Scientist ‘It’s Illogical & Unethical To Force Jab On NHS Staff.” *The Richie Allen Radio Show* (September 9, 2021). <https://richieallen.co.uk/oxford-scientist-its-illogical-unethical-to-force-jab-on-nhs-staff/> ..... 19
- Attkisson, S. “CDC changes definition of ‘vaccines’ to fit Covid-19 vaccine limitations.” (September 8,2021). <https://sharylattkisson.com/2021/09/read-cdc-changes-definition-of-vaccines-to-fit-covid-19-vaccine-limitations> ..... 19

*Table of Authorities*

Bhattacharya, J., *et al.* “The beauty of vaccines and natural immunity,” *Smerconish Newsletter* (June 4, 2021). <https://www.smerconish.com/exclusive-content/the-beauty-of-vaccines-and-natural-immunity> ..... 18

Chasmar, J. “Psaki doesn’t deny White House COVID-19 outbreak.” *Yahoo News*. (December 20, 2021). <https://www.foxnews.com/politics/psaki-white-house-covid-19-outbreak> ..... 19

*The CMB and The Omnipresent Threat of Usurpation*. <https://aflds.org/about-us/issue-briefs/the-cmb-and-the-omnipresent-threat-of-usurpation> ..... 2

CNN: The Situation Room, interview with CDC Director Walensky. (August 5, 2021) <https://twitter.com/CNNSitRoom/status/1423422301882748929> ..... 17

Coleman, K. “Dr. Fauci Just Issued This Urgent Warning to Vaccinated People,” *Yahoo News* (November 12, 2021). <https://www.yahoo.com/lifestyle/dr-fauci-just-issued-urgent-201846228.html> ..... 17

*Table of Authorities*

Colson, T. “Top WHO scientist says vaccinated travelers should still quarantine, citing lack of evidence that COVID-19 vaccines prevent transmission,” *Business Insider* (December 29, 2020). <https://www.businessinsider.com/who-says-no-evidence-coronavirus-vaccine-prevent-transmissions-2020-12?op=1> ..... 17

“Covid Pedia: Vaccine Safety,” <https://aflds.org/covid-pedia/vaccine-safety> ..... 12, 15

“England Refuses to Offer COVID Shots to Kids Under 12, While US Cities Mandate Them. Who’s Right?” <https://fee.org/articles/england-refuses-to-offer-covid-shots-to-kids-under-12-while-us-cities-mandate-them-who-s-right/> ..... 14

FDA. “Comirnaty.Vaccines, Blood, and Biologics.” (December 2021). <https://www.fda.gov/vaccines-blood-biologics/comirnaty> ..... 20

FDA. “Coronavirus (COVID-19)| CBER-Regulated Biologics.” (2021). <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologic> ..... 20

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



*Table of Authorities*

“Finland joins Sweden and Denmark in limiting Moderna COVID-19 vaccine,” <https://www.reuters.com/world/europe/finland-pauses-use-moderna-covid-19-vaccine-young-men-2021-10-07/> ..... 14

“Florida State Surgeon General Calls for Halt in the Use of COVID-19 mRNA Vaccines.” <https://www.floridahealthgov/newsroom/2024/01/20240103-halt-use-covid19-mrna-vaccines.pr.html> ..... 13

Gold, S., M.D., J.D. “A White Paper on Hydroxychloroquine,” <https://americasfrontlinedoctors.org/index/covid/hydroxychloroquine/white-paper/> ..... 15

Hammond, Jeremy R., *The War on Informed Consent: The Persecution of Dr. Paul Thomas by the Oregon Medical Board.* (2021) ..... 5

Hooker, B. and Miller, N. “Analysis of health outcomes in vaccinated and unvaccinated children: Developmental delays, asthma, ear infections and gastrointestinal disorders,” *SAGE Open Med.* (May 27, 2020). <https://pmc.ncbi.nlm.nih.gov/articles/PMC7268563/> ..... 11

*Table of Authorities*

Hooker, B. and Miller, N. “Health effects in vaccinated versus unvaccinated children, with covariates for breastfeeding status and type of birth,” *J Transl Sci* 7:2-11 (2021), <https://www.oatext.com/pdf/JTS-7-459.pdf> ..... 11

Horowitz, D. “Louisiana AG Jeff Landry warns pharmacies against blocking COVID treatment.” (September 27, 2021). <https://www.theblaze.com/columns/opinion/horowitz-louisiana-ag-jeff-landry-warns-pharmacies-against-blocking-covid-treatment>..... 22

<https://aflds.org/about-us/press-releases/american-frontline-doctors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate> ..... 4

<https://c19hcq.org>..... 15

<https://c19ivm.org> ..... 15

<https://www.modernatx.com/patents> ..... 20

<https://openvaers.com/covid-data> ..... 12

<https://www.cdc.gov/vaccines/imz-schedules/downloads/parent-ver-sch-0-6yrs.pdf> ..... 12

<https://www.cdc.gov/media/releases/2022/p0811-covid-guidance.html> ..... 17

*Table of Authorities*

<https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html> ..... 21

<https://www.westernstandard.news/news/japanese-researchers-say-side-effects-of-covid-vaccines-linked-to-201-types-of-diseases/51661> ..... 13

Hulscher, N. “Breaking—Kentucky Becomes the 9th U.S. State with Legislative Efforts to Ban mRNA Injections.” (Feb. 12, 2025). <https://petermcculloughmd.substack.com/p/breaking-kentucky-becomes-the-9th> ..... 14

Knapton, S. “Delta variant has wrecked hopes of herd immunity, warn scientists,” *The Telegraph* (October 8, 2021). <https://www.msn.com/en-gb/health/medical/delta-variant-has-wrecked-hopes-of-herd-immunity-warn-scientists/ar-AAN9O4p> ..... 18

Lemos, G., *et al.* “17 Covid-19 cases identified on New Orleans-bound cruise ship.” CNN (December 5, 2021). <https://www.cnn.com/2021/12/05/us/cruise-ship-norwegian-break-away-covid-cases/index.html> ..... 19

*Table of Authorities*

Lipson, C. “Foreign DNA in COVID vaccines: The FDA’s troubling silence on safety concerns.” (Feb. 12, 2025). [https://thegoldreport.substack.com/p/foreign-dna-in-covid-vaccines-the?utm\\_source=post-email-title&publication\\_id=2439317&post\\_id=156853389&utm\\_campaign=email-post-title&isFreemail=true&r=bn4of&triedRedirect=true&utm\\_medium=email](https://thegoldreport.substack.com/p/foreign-dna-in-covid-vaccines-the?utm_source=post-email-title&publication_id=2439317&post_id=156853389&utm_campaign=email-post-title&isFreemail=true&r=bn4of&triedRedirect=true&utm_medium=email)..... 12

“Louisiana health officials ‘shifting away’ from policy of promoting COVID, flu vaccinations.” [https://www.nola.com/news/politics/vaccine-louisiana-policy-covid-flu/article\\_3e0521bc-c096-11ef-bfd3-fb389831770e.html](https://www.nola.com/news/politics/vaccine-louisiana-policy-covid-flu/article_3e0521bc-c096-11ef-bfd3-fb389831770e.html)..... 13

Manskar, N. “Moderna boss says COVID-19 vaccine not proven to stop spread of virus,” *New York Post* (November 24, 2020). <https://nypost.com/2020/11/24/moderna-boss-says-covid-shot-not-proven-to-stop-virus-spread> ..... 17

Nakagami, H. “Development of COVID-19 vaccines utilizing gene therapy technology.” *IntImmunol* 33(10):521-527 (September 25, 2021). <https://pubmed.ncbi.nlm.nih.gov/337725721> ..... 20

*Table of Authorities*

Piché-Renaud, P., <i>et al.</i> “COVID-19 vaccine effectiveness against severe omicron-related outcomes in children aged 5 to 11 years in Ontario: A Canadian immunization research network (CIRN) study,” <i>Vaccine</i> 44:126539 (2025) .....	11
RAIR Foundation USA video with Nobel Laureate Luc Montagnier. (May 18, 2021). <a href="https://rairfoundation.com/bombshell-nobel-prize-winner-reveals-covid-vaccine-is-creating-variants/">https://rairfoundation.com/bombshell-nobel-prize-winner-reveals-covid-vaccine-is-creating-variants/</a> .....	18
Shitrit, P., <i>et al.</i> “Nosocomial outbreak caused by the SARS-CoV-2 Delta variant in a highly vaccinated population, Israel, July 2021,” <i>EuroSurveill</i> 26:39 (September 23, 2021). <a href="https://doi.org/10.2807/1560-7917.ES.2021.26.39">https://doi.org/10.2807/1560-7917.ES.2021.26.39</a> .....	18
Stieg, C. “Dr. Fauci on CDC mask guidelines: ‘We are dealing with a different virus now.’” (July 28, 2021). <a href="https://www.cnbc.com/2021/07/28/dr-fauci-on-why-cdc-change-d-guidelines-delta-is-a-different-virus.html">https://www.cnbc.com/2021/07/28/dr-fauci-on-why-cdc-change-d-guidelines-delta-is-a-different-virus.html</a> .....	17
United States Securities and Exchange Commission, <i>Moderna Form 10Q</i> . (August 6, 2020). <a href="https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm">https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm</a> .....	20

*Table of Authorities*

“US sports leagues cope with COVID-19 outbreaks amid variants.” *Associated Press* (December 15, 2021). [https://www.foxnews.com/sports/us-sports-leagues-cope-with-covid-19-out breaks-amid-variants](https://www.foxnews.com/sports/us-sports-leagues-cope-with-covid-19-out-breaks-amid-variants) ..... 19

WFLA News. “Desantis, Moody Speak Out Against Vaccine Mandates in Clearwater.” Twitter Repost. (October 24, 2021). <https://twitter.com/4patrick7/status/1452309002021388296?s=21> ..... 18

## A MATTER OF GREAT PUBLIC IMPORTANCE

The Free Speech Foundation, d/b/a America’s Frontline Doctors, and Dr. Simone Gold, M.D., J.D., the founder and physician member (“*Amici Curiae*” or “AFLDS”) respectfully file this *amici curiae* brief in support of the Petitioner’s request for damages in *Paul Thomas, M.D. v. Kathleen Harder, M.D., et al.*, No. 3:22-cv-994 (D. Or.), *Thomas v Harder*, No. 23-35456 (CA9), 24-752 (2024).<sup>1</sup>

AFLDS recently submitted an *amici curiae* brief in the significant First Amendment case of *Murthy, et al. v. Missouri, et al.*, 23-411 (2023). AFLDS also filed an *amici curiae* brief in *U.S.A. v. Skrmetti, et al.*, 23-477 (2024), along with several other *amici curiae* briefs.

The United States Supreme Court also accepted an *amici curiae* brief from AFLDS in *Nat’l Fed’n of Indep. Bus. v. OSHA*, 595 U.S. \_\_\_\_, 142 S.Ct. 661 (2022), which position prevailed in that case.

This *amici curiae* brief offers an important medical perspective to this Court of great public importance, by conclusively demonstrating that the Respondent medical board members should not be allowed to escape accountability for their alleged intentional and malicious behavior towards Petitioner behind a shield of unwarranted “*quasi-judicial immunity*,” also known as “*absolute immunity*.” Further, if not stopped, these violations by government officials are likely to recur. See AFLDS issue brief: *The CMB and The Omnipresent*

---

<sup>1</sup> Pursuant to Rule 37.6, it is hereby certified that no counsel or any party authored or prepared this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. The parties received timely notice of the filing of this *amici curiae* brief pursuant to Rule 37.2.

*Threat of Usurpation.*<sup>2</sup> Limits on executive authority must be urgently reinforced now by granting the Petition for *Certiorari*.

### **INTEREST OF *AMICI CURIAE***

*Amici Curiae* are the Free Speech Foundation, d/b/a America’s Frontline Doctors (“AFLDS”), a non-partisan, not-for-profit organization of hundreds of member physicians from across the country, representing a range of medical disciplines and practical experience on the front lines of medicine, and its founder and expert physician and attorney member, Dr. Simone Gold, M.D., J.D.

AFLDS’ programs focus on a number of critical issues, including:

- Providing Americans with science-based facts about COVID-19;
- Protecting physician independence from government overreach;
- Combating COVID-19 with evidence-based approaches without compromising constitutional freedoms;
- Fighting medical cancel culture and media censorship;
- Advancing healthcare policies that protect the physician-patient relationship;
- Expanding COVID-19 treatment options for all Americans who need them; and
- Strengthening the voices of frontline doctors in the national healthcare conversation.

---

<sup>2</sup> <https://afls.org/about-us/issue-briefs/the-cmb-and-the-omni-present-threat-of-usurpation>



Each of AFLDS’ member physicians is deeply committed to the guiding principle of medicine: “FIRST, DO NO HARM.” They gravely take their ethical obligations to their patients. It is axiomatic that a physician’s duty is to his or her patient. AFLDS holds sacrosanct the relationship between doctor and patient where informed decisions are to be made, taking into consideration all of the factors relating to the patients’ health, risks, co-morbidities and circumstances.

For AFLDS member physicians, the practice of medicine is not merely a job or career. Rather, it is a sacred trust. It is a high calling that often requires a decade or more of highly focused sacrificial dedication to achieve.

America’s Frontline Doctors is committed to preserving the voluntary and fully informed doctor/patient relationship, opposes any sort of illegal interference with that relationship, and opposes illegal government overreach by the censorship of medical and other information, or by the “mandating” of incorrect or dangerous medical information or treatments.

Indeed, AFLDS and Dr. Simone Gold, M.D., J.D. were targeted by the governmental defendants in *Murthy v. Missouri*, *supra*, as being among the so-called “Disinformation Dozen” for promoting accurate medical information, such as the benefits of hydroxychloroquine (“HCQ”) and Ivermectin, and for opposing vaccine passports. AFLDS’ medical information proved to be completely correct. The censors were shown to be the ones advancing inaccurate information, even though incorrect information is also protected free speech.

Dr. Gold and AFLDS also publicly supported the position, as early as October, 2021, that experimental mRNA injections are not “vaccines,” because they do

not prevent infection or transmission, and they are neither “safe” nor “effective.”<sup>3</sup> They are personal medical treatments only. This view is now also known to be correct.

“Informed consent” for medical treatments cannot truly be informed unless there is a full disclosure of all known benefits and risks. Voluntary informed consent can never be coerced, subjected to undue influence, nor distorted by censored and incomplete information.

In this case, Petitioner Dr. Thomas was punished and persecuted for fully, accurately and ethically informing his patients. Such persecution chills the free speech of, and medical treatments by, all doctors, including AFLDS, which in turn robs all Americans of honest information necessary for fully informed consent.

## **SUMMARY OF ARGUMENT**

Respondent Oregon Medical Board (“OMB” or “Board”) members and investigators are members of the Executive Branch. They are not judges or members of the Judicial Branch. As mere Executive Branch employees alleged to have engaged in intentionally malicious conduct, they are not entitled to absolute immunity.<sup>4</sup>

Even actual judges, members of the Judicial Branch, are denied absolute judicial immunity in cases where they are alleged to have engaged in

---

<sup>3</sup> <https://afllds.org/about-us/press-releases/americas-frontline-doc-tors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate>

<sup>4</sup> The Ninth Circuit opined that board members were entitled to “absolute immunity,” and that staff members were entitled to “qualified immunity.” Petition, App. A.

malicious and intentional acts, and also are denied absolute immunity for abuse in their enforcement capacity. See *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719 (1980), *Harris v Harvey*, 605 F.2d 330 (7th Cir. 1979).

Yet the courts below ignored all relevant legal considerations in giving Respondent board members and investigators blanket immunity. Petitioner points out that this Court has held that courts should be “quite sparing” in recognizing absolute immunity, citing *Forrester v. White*, 484 U.S. 219, 224 (1988). Indeed, numerous cases have denied *quasi*-judicial or absolute immunity to mere members of Executive Branch Medical Boards or other kinds of board members and employees.

Further, the six factors described in *Butz v. Economou*, 438 U.S. 478 (1978) should be present in order to be entitled to absolute or *quasi*-judicial immunity. None of those six *Butz v. Economou* factors were present in this case.

Finally, the Respondents violated numerous clearly established laws in their persecution of Dr. Thomas:

Oregon has no power to interfere with an individual’s right to choose what medical treatment they receive. ORS 431.180. Individuals have the absolute right to make their own healthcare decisions. See ORS 127.649(1)(a)(A). Parents have the absolute right to refuse to immunize their child. See ORS 433.267(1)(c). Individuals have a fundamental right to refuse medical treatment. See *Washington v. Glucksberg*, 521 U.S. 702, 720 (1990) (the Due Process Clause protects the traditional right to

refuse unwanted lifesaving medical treatment).

Petition for a Writ of *Certiorari*, p. 6.

These violations of clearly established laws further disqualify Respondents from *quasi*-judicial or absolute immunity.

Doctors must fully inform their patients of the possible benefits and the possible adverse consequences of all contemplated medical treatments. As required, Dr. Thomas was accurately informing his patients within the protected doctor/patient relationship. Dr. Thomas' treatment plans were successful. His patients were very satisfied, with no complaints.

In 2019, the OMB asked Dr. Thomas to justify his treatment plans in the absence of any patient complaints. In response, Dr. Thomas conducted a study of childhood vaccinations comparing the health outcomes of unvaccinated children to those of moderately vaccinated children. On November 22, 2020, he published his peer-reviewed paper finding that unvaccinated children were much healthier than moderately vaccinated children, a result which does not surprise *Amici Curiae*. Eleven days later, despite no patient complaint nor disputes about the data, the Oregon Medical Board suspended his license on an *ex parte* basis, merely because they disagreed with the accurate findings of the study which they themselves requested.

The Board went on to abuse and harass Dr. Thomas so maliciously that a book was written about the relentless harassment. See Jeremy R. Hammond, *The War on Informed Consent: The Persecution of Dr. Paul Thomas by the Oregon Medical Board* (2021). This severe, extra-judicial abuse and harassment of

Dr. Thomas alone should have disqualified these Executive Branch board members from any sort of *quasi*-judicial or absolute immunity.

The courts below completely ignored the many facts surrounding the malicious harassment of Dr. Thomas, ignored the six factors identified by *Butz v. Economou*, 438 U.S. 478 (1978), completely ignored the directive from *Forrester v. White, supra* — that courts should be “quite sparing” in recognizing any sort of absolute immunity — and ignored the Board’s numerous violations of well-established state laws. Instead, in a scant unpublished opinion, the Ninth Circuit automatically applied a blanket immunity to the Board employees.

The court below egregiously erred in its automatic application of *quasi*-judicial or absolute immunity, which deprived Petitioner of access to courts.

Further, the medical information about which Dr. Thomas ethically and responsibly informed his patients was clinically accurate, as large amounts of reliable medical research discussed herein has confirmed over the past few years.

*Certiorari* should be granted in order to justly reinstate Dr. Thomas and to curb any further abuses by medical boards and other boards nationwide.

Further, the unwritten rule of the OMB in requiring doctors to recommend childhood vaccinations for everyone is irrational, dangerous, and serves no legitimate state purpose. Doctors aware of current data should be free to have individualized recommendations, consistent with Oregon state laws such as ORS 431.180, ORS 127.649(1)(a)(A), and ORS 433.267(1)(c). This unwritten rule, in effect via threat of Board enforcement, illegally requires doctors to recommend dangerous experimental medical treatments or other

drugs which do not necessarily prevent infection or transmission, depending on the vaccine type, or have severe side effects including death. This unwritten rule simultaneously violates numerous well-established laws under the coercive threat of the loss of a good doctor’s hard-earned medical license, and is completely irrational.

## ARGUMENT

**A. The Ninth Circuit committed reversible error by extending absolute, *quasi*-judicial immunity to Oregon Medical Board members and investigators, contrary to this Court’s precedents and the rulings of many other Circuits which have correctly applied this Court’s precedents.**

The Oregon Medical Board is an executive branch agency, not a panel of judges. In granting the board members *quasi*-judicial or absolute immunity, the courts below completely ignored the malicious harassment of Dr. Thomas, ignored the six factors identified by *Butz v. Economou*, 438 U.S. 478 (1978), ignored the directive from *Forrester v. White*, 484 U.S. 219, 224 (1988) that courts should be “quite sparing” in recognizing any sort of absolute immunity, and ignored the board’s numerous violations of well established constitutional and Oregon law. Instead, the courts below automatically applied a blanket immunity to the Medical Board, completely disregarding applicable law.

The Ninth Circuit panel in its short unpublished opinion committed reversible error by extending absolute, *quasi*-judicial immunity to the Oregon

board members without considering the applicable legal factors.

Many circuits have properly rejected this improper extension of blanket immunity to Executive Branch board members.

In *Adam Cmty. Ctr. v. City of Troy*, Case No. 18-13481 (E.D. Mich. 2019), the court held that the zoning board members failed to meet the burden of establishing *quasi-judicial* immunity.

In *Turner v. Houma Mun. Fire and Police Civil Service Bd.*, 229 F.3d 478 (5th Cir. 2000), the Fifth Circuit held that absolute *quasi-judicial* immunity was not available to the municipal police and fire board members sued in their official capacities.

In *VanHorn v. Oelschlager*, 502 F.3d 775 (8th Cir. 2007), in a suit by licensed veterinarians against racing commission board members, the Eighth Circuit held that defense of absolute, *quasi-judicial* immunity was not available to racing board officials for claims against them in their official capacities.

In *Geness v. Pennsylvania*, 388 F.Supp.3d 530 (W.D. Pa. 2019), a mentally impaired pretrial detainee brought an action alleging that the Administrative Office of Pennsylvania Courts was in violation of the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.* The court held that the Administrative Law Judges were not entitled to *quasi-judicial* immunity under the circumstances presented by that case.

In *Lonzetta Trucking & Excavating Co. v. Schan*, 144 F.App'x 206 (3d Cir. 2005), the Third Circuit held that the zoning board defendants were not entitled to *quasi-judicial* immunity in either their official or individual capacities.

*See also Stewart v. Baldwin Cnty. Bd. of Educ.*, 908 F.2d 1499 (11th Cir. 1990), denying *quasi-judicial* immunity to school board members.

All of these courts, unlike the outlier Ninth Circuit, properly applied the applicable legal considerations, and did not simply extend blanket, automatic, and absolute immunity to board members.

**B. Dr. Thomas’ peer-reviewed study of the health outcomes of childhood vaccination is accurate and consistent with recent scientific research, and critical to the informed consent rights of his patients. Doctors should never be persecuted by medical boards for conducting accurate medical research.**

The findings of Dr. Thomas’ 2020 peer-reviewed study of childhood vaccinations, which compared the health outcomes of unvaccinated children against the health outcomes of moderately vaccinated children, and which found that the unvaccinated children were much healthier than the moderately vaccinated children, is scientifically accurate and fully consistent with much recent, solid scientific research.

In contrast, the Oregon Medical Board’s enforcement of its unwritten vaccine ideology upon independent doctors is contrary to well-established Oregon state law and the constitutional right to refuse medical treatment. As practicing physicians, *Amici Curiae* submit it is their experience that such ideology seems to be driven by often inaccurate pharmaceutical company advertising and marketing.

The OMB extreme vaccine ideology also runs counter to recent research on childhood vaccinations which confirms Dr. Thomas’ view.

In a 2020 study of children in the United States, higher incidences were observed within the vaccinated versus unvaccinated group for develop-



mental delays, asthma and ear infections.<sup>5</sup> Similar results were observed in a Canadian study.<sup>6</sup>

Again, in another United States study, higher incidences were observed within the fully and partially vaccinated groups versus the unvaccinated group for severe allergies, autism, gastrointestinal disorders, asthma, attention deficit disorder (ADD/ADHD), and chronic ear infections.<sup>7</sup>

Dr. Thomas was absolutely right. He should never have been wrongfully persecuted by the Respondents, and they should not now enjoy any automatic immunity.

The OMB members deprived a medical doctor who reasonably relied on scientific medical information to uphold his high calling (“First do no harm.”) of his professional license and livelihood, simply because they disagreed with the information.

But medical information is invariably in flux, and this country’s recent experience with COVID-19 experimental injections demonstrates that medical information evolves quickly. Pharmaceutical treatments touted at first are often later found to be detrimental, and this has happened with respect to COVID-19 injections.

---

<sup>5</sup> Hooker, B. and Miller, N. “Analysis of health outcomes in vaccinated and unvaccinated children: Developmental delays, asthma, ear infections and gastrointestinal disorders,” *SAGE Open Med.* 2020 May 27, see <https://pmc.ncbi.nlm.nih.gov/articles/PMC7268563/>

<sup>6</sup> Piché-Renaud, P., *et al.* “COVID-19 vaccine effectiveness against severe omicron-related outcomes in children aged 5 to 11 years in Ontario: A Canadian immunization research network (CIRN) study,” *Vaccine* 44:126539 (2025).

<sup>7</sup> Hooker, B. and Miller, N. “Health effects in vaccinated versus unvaccinated children, with covariates for breastfeeding status and type of birth,” *J Transl Sci* 7:2-11 (2021), see <https://www.oatext.com/pdf/JTS-7-459.pdf>

Deeply concerning to *Amici Curiae* is that despite many studies showing the alarming adverse reactions to COVID-19 “vaccines,” these experimental mRNA injections have nevertheless now been added to the childhood vaccine schedule.<sup>8</sup>

Much recent, objective scientific studies and data regarding the severe adverse reactions, including thousands of deaths associated with the experimental mRNA injections, have been compiled at “Covid Pedia: Vaccine Safety” on the AFLDS website.<sup>9</sup> Additional concerns have been raised regarding foreign DNA contamination in COVID-19 mRNA injections.<sup>10</sup>

The CDC’s Vaccine Adverse Event Reporting System (VAERS) data show that as of December 27, 2024, there have been 38,264 deaths in America alone, which thousands of medical professionals have attributed to fatal adverse reactions to the experimental COVID-19 mRNA injections.<sup>11</sup> This cannot reasonably be considered “safe.”

Additionally, VAERS recorded 219,594 hospitalizations; 156,157 urgent care visits; 17,883 cases of Bell’s palsy; 5,165 miscarriages; 22,134 heart attacks; and 28,814 myocarditis/pericarditis cases. Similarly, Japanese researchers have linked these

---

<sup>8</sup> See, e.g., <https://www.cdc.gov/vaccines/imz-schedules/downloads/parent-ver-sch-0-6yrs.pdf>

<sup>9</sup> “Covid Pedia: Vaccine Safety,” see <https://afllds.org/covid-pedia/vaccine-safety>.

<sup>10</sup> Lipson, C. “Foreign DNA in COVID vaccines: The FDA’s troubling silence on safety concerns.” (Feb. 12, 2025). [https://thegoldreport.substack.com/p/foreign-dna-in-covid-vaccines-the?utm\\_source=post-email-title&publication\\_id=2439317&post\\_id=156853389&utm\\_campaign=email-post-title&isFreemail=true&r=bn4of&triedRedirect=true&utm\\_medium=email](https://thegoldreport.substack.com/p/foreign-dna-in-covid-vaccines-the?utm_source=post-email-title&publication_id=2439317&post_id=156853389&utm_campaign=email-post-title&isFreemail=true&r=bn4of&triedRedirect=true&utm_medium=email)

<sup>11</sup> <https://openvaers.com/covid-data>

experimental mRNA injection side effects to 201 types of diseases.<sup>12</sup>

The conservatively estimated 38,264 American deaths shock the conscience. The excessive and unconscionable adverse reaction statistics demonstrated by VAERS can form a reasonable basis for some patients to avoid risky mRNA injections in favor of safer alternatives, in their exercise of voluntary and fully informed consent, free of coercion, and after full disclosure of these medical risks. The Oregon board’s unwritten vaccine ideology rule, which ultimately withholds key risk vs. benefit information by removing a doctor who makes it available to the public, is highly dangerous to patients.

In response to the torrent of new facts and safety data about mRNA injections, government policies and recommendations are changing. In Florida, for example, Surgeon General Dr. Joseph A. Ladapo called for a complete halt in the use of COVID-19 mRNA “vaccines,” citing contamination concerns.<sup>13</sup>

In Louisiana, led by Surgeon General Dr. Ralph Abraham, health officials have shifted away from the policy of promoting COVID-19 and flu vaccinations, citing concerns about the efficacy and safety of these vaccines.<sup>14</sup> The Louisiana Health Department

---

<sup>12</sup> <https://www.westernstandard.news/news/japanese-researchers-say-side-effects-of-covid-vaccines-linked-to-201-types-of-diseases/51661>

<sup>13</sup> “Florida State Surgeon General Calls for Halt in the Use of COVID-19 mRNA Vaccines”: “The Surgeon General outlined concerns regarding nucleic acid contaminants in the approved Pfizer and Moderna COVID-19 mRNA vaccines, particularly in the presence of lipid nanoparticle complexes, and Simian Virus 40 (SV40) promoter/enhancer DNA.” <https://www.floridahealth.gov/newsroom/2024/01/20240103-halt-use-covid19-mrna-vaccines.pr.html>

<sup>14</sup> “Louisiana health officials ‘shifting away’ from policy of

realizes that medicine is not “one size fits all.” All patients are different, and have different medical needs. It is inappropriate and potentially medical malpractice to issue blanket medical treatment recommendations or requirements to broad categories of patients, without first assessing and examining each patient and their unique medical condition individually by a qualified medical professional.

In nine states, new legislative efforts are underway to ban mRNA injections.<sup>15</sup>

Many European countries, including Finland, Sweden, Denmark and the United Kingdom, have taken similar actions in limiting or eliminating their previous blanket mRNA injection recommendations.<sup>16</sup>

---

promoting COVID, flu vaccinations”: “Citing concerns about the efficacy and safety of vaccines, state officials will instead encourage residents to consult their doctor about vaccination, Louisiana Department of Health spokesperson Emma Herrock said in a statement.

‘In general, the department is shifting away from one-size-fits-all paternalistic guidance to a more informative approach aimed at enabling individuals, in consultation with their doctor, to make better decisions for themselves,’ the statement said.” [https://www.nola.com/news/politics/vaccine-louisiana-policy-covid-flu/article\\_3e0521bc-c096-11ef-bfd3-fb389831770e.html](https://www.nola.com/news/politics/vaccine-louisiana-policy-covid-flu/article_3e0521bc-c096-11ef-bfd3-fb389831770e.html)

<sup>15</sup> Hulscher, N. “Breaking—Kentucky Becomes the 9th U.S. State with Legislative Efforts to Ban MRNA Injections.” (Feb. 12, 2025). <https://petermcculloughmd.substack.com/p/breaking-kentucky-becomes-the-9th>

<sup>16</sup> “Finland joins Sweden and Denmark in limiting Moderna COVID-19 vaccine,” <https://www.reuters.com/world/europe/finland-pauses-use-moderna-covid-19-vaccine-young-men-2021-10-07/>

“England Refuses to Offer COVID Shots to Kids Under 12, While US Cities Mandate Them. Who’s Right?”: “... the UKHSA’s decision puts England in line with several other European countries—including Sweden, Finland, Norway, and

*Amici Curiae* maintain, supported by voluminous scientific research, that experimental mRNA injections are neither “safe” nor “effective,” particularly for children who are at little risk from COVID-19.<sup>17</sup> *Amici* further maintain that voluminous scientific research supports the early COVID-19 treatments with hydroxychloroquine (“HCQ”) and Ivermectin as quite safe and effective, contrary to incessant government narratives against such treatment options.<sup>18, 19, 20</sup> These are reasonable

---

Denmark—that do not offer or recommend mRNA vaccines to healthy young children.” <https://fee.org/articles/england-refuses-to-offer-covid-shots-to-kids-under-12-while-us-cities-mandate-them-who-s-right/>

<sup>17</sup> See “Covid Pedia: Vaccine Safety.” FN 9.

<sup>18</sup> As of February 13, 2025, a global, real-time meta-analysis includes 419 Hydroxychloroquine (“HCQ”) COVID-19 studies, from 8,646 scientists and 591,536 patients in 59 countries, 406 studies are peer reviewed, with 402 comparing treatment and control groups. The studies indicate a statistically significant improvement for mortality, hospitalization, recovery, cases, and viral clearance, and there is 72 percent less death in 16 early treatment trials. See <https://c19hcq.org/>

<sup>19</sup> A white paper is to draw the reader’s attention to the indisputable safety of hydroxychloroquine (“HCQ”), an analog of the same quinine found in tree barks that George Washington used to protect his troops. A “White Paper on Hydroxychloroquine” by Dr. Simone Gold, M.D., J.D., is the culmination of months-long research from all sources. It explains how Americans have come to be in the grip of fear. All the myths and all the misconceptions about a safe, generic drug that has been FDA approved for 65 years, given to pregnant women, breast-feeding women, children, the elderly, and the immune-compromised for years and decades without complication, are finally put to rest. <https://americasfrontlinedoctors.org/index/covid/hydroxychloroquine/white-paper/>

<sup>20</sup> As of February 13, 2025, a global, real-time meta-analysis includes 105 Ivermectin COVID-19 studies. The studies indicate Ivermectin reduces risk for COVID-19 with very high confidence for mortality, ventilation, ICU admission,

alternatives to the more dangerous experimental mRNA injections, as determined within each protected doctor/patient relationship.

On August 23, 2021, the Food and Drug Administration (“FDA”) issued an approval for a COVID-19 drug called “Comirnaty”; however, Comirnaty was never available in the United States. The same day, the FDA extended the emergency use authorization (“EUA”) for the experimental mRNA COVID-19 drugs which were actually in use in America. This created a great deal of confusion. It was erroneously reported that the mRNA injections actually in use had now been approved by the FDA, but this was not true. The EUA for these experimental mRNA injections was only extended. Therefore, all of the laws and regulations applicable to experimental drugs discussed herein are still in full force and effect.

In all good conscience, how can anyone coercively require doctors to recommend unapproved treatments that might kill their patients, without voluntary consent (in the case of “mandates”), and without being fully informed of the risks?

In maliciously harrassing and punishing Dr. Thomas for his opinions and factual findings, Respondents were “deliberately indifferent” to prevailing medical realities.

It is now well-recognized that mRNA injections do not prevent infection or transmission of the coronavirus. They do not create immunity in the

---

hospitalization, recovery, cases and viral clearance. (No treatment, vaccine, or intervention is 100 percent effective and available.) Thus all practical, effective, and safe means should be used based on risk/benefit analysis. Over 20 countries adopted Ivermectin for COVID-19. Ivermectin may now be purchased over the counter in the state of Tennessee. <https://c19ivm.org/>

recipients. This is openly admitted. The CDC Director stated on CNN, “What the vaccines can’t do anymore is prevent transmission.”<sup>21</sup> Examples abound:

- CDC states that vaccinated and unvaccinated persons should be treated the same.”<sup>22</sup>
- NIAID Director Dr. Fauci: “[vaccinated people with COVID-19] are capable of transmitting the infection to someone else.”<sup>23</sup>
- Dr. Fauci reported “breakthrough infections among the vaccinated.”<sup>24</sup>
- Authorities finding that COVID-19 injections do not prevent infection or transmission include: WHO Chief Scientist Dr. Swaminathann,<sup>25</sup> Moderna CMO Dr. Tal Zaks,<sup>26</sup> and Florida Surgeon General Dr. Joseph Ladapo, M.D., Ph.D:

---

<sup>21</sup> CNN: The Situation Room, interview with CDC Director Walensky. (August 5, 2021) <https://twitter.com/CNNSitRoom/status/1423422301882748929>

<sup>22</sup> <https://www.cdc.gov/media/releases/2022/p0811-covid-guidance.html>

<sup>23</sup> Stieg, C. “Dr. Fauci on CDC mask guidelines: ‘We are dealing with a different virus now.’” (July 28, 2021). <https://www.cnn.com/2021/07/28/dr-fauci-on-why-cdc-changed-guidelines-delta-is-a-different-virus.html>

<sup>24</sup> Coleman, K. “Dr. Fauci Just Issued This Urgent Warning to Vaccinated People,” *Yahoo News* (November 12, 2021). <https://www.yahoo.com/lifestyle/dr-fauci-just-issued-urgent-2018-46228.html>

<sup>25</sup> Colson, T. “Top WHO scientist says vaccinated travelers should still quarantine, citing lack of evidence that COVID-19 vaccines prevent transmission,” *Business Insider* (December 29, 2020). <https://www.businessinsider.com/who-says-no-evidence-coronavirus-vaccine-prevent-transmissions-2020-12?op=1>

<sup>26</sup> Manskar, N. “Moderna boss says COVID-19 vaccine not proven to stop spread of virus,” *New York Post* (November 24, 2020). <https://nypost.com/2020/11/24/moderna-boss-says-covid-shot-not-proven-to-stop-virus-spread/>

“the infections can still happen whether people are vaccinated or not. That’s very obvious.”<sup>27</sup>

- On January 3<sup>rd</sup>, 2024, Surgeon General Lapado called for a complete halt in the use of experimental mRNA injections, citing concerns regarding a long list of contaminants.<sup>28</sup>
- Other authorities confirming that the experimental COVID-19 drugs do not stop infection or transmission are: Oxford’s Professor Pollard,<sup>29</sup> Stanford’s Dr. Jay Bhattacharya, M.D., Ph.D.,<sup>30</sup> Nobel Prize winner Dr. Luc Montagnier,<sup>31</sup> a July 2021 Eurosurveillance study finding that 100 percent of severe, critical, and fatal cases of COVID-19 occurred in injected individuals,<sup>32</sup> Harvard’s Dr. Kulldorff,<sup>33</sup> and

---

<sup>27</sup> WFLA News. “Desantis, Moody Speak Out Against Vaccine Mandates in Clearwater.” Twitter Repost. (October 24, 2021). <https://twitter.com/4patrick7/status/1452309002021388296?s=21>

<sup>28</sup> <https://www.floridahealth.gov/newsroom/2024/01/20240103-halt-use-covid19-mrna-vaccines.pr.html>

<sup>29</sup> Knapton, S. “Delta variant has wrecked hopes of herd immunity, warn scientists,” *The Telegraph* (October 8, 2021). <https://www.msn.com/en-gb/health/medical/delta-variant-has-wrecked-hopes-of-herd-immunity-warn-scientists/ar-AAN904p>

<sup>30</sup> Bhattacharya, J., *et al.* “The beauty of vaccines and natural immunity,” *Smerconish Newsletter* (June 4, 2021). <https://www.smerconish.com/exclusive-content/the-beauty-of-vaccines-and-natural-immunity>

<sup>31</sup> RAIR Foundation USA video with Nobel Laureate Luc Montagnier. (May 18, 2021). <https://rairfoundation.com/bombshell-nobel-prize-winner-reveals-covid-vaccine-is-creating-variants/>

<sup>32</sup> Shitrit, P., *et al.* “Nosocomial outbreak caused by the SARS-CoV-2 Delta variant in a highly vaccinated population, Israel, July 2021,” *EuroSurveill* 26:39. (September 23, 2021). <https://doi.org/10.2807/1560-7917.ES.2021.26.39.2100822>

<sup>33</sup> Adams, P., *et al.* “Who Are These COVID-19 Vaccine Skeptics and What Do They Believe?” *Epoch Times* (October 20, 2021). [https://www.theepochtimes.com/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe\\_4043094.html](https://www.theepochtimes.com/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe_4043094.html)



Oxford’s Dr. Sunetra Gupta.<sup>34</sup>

There are countless news reports of outbreaks on fully “vaccinated” sports teams,<sup>35</sup> cruise ships,<sup>36</sup> and in the fully “vaccinated” White House.<sup>37</sup>

The COVID-19 injections do not create immunity; Moderna CMO Tal Zaks, for example, warned that the vaccine does not prevent transmission of the virus.<sup>38</sup> This may explain why, in August of 2021, the CDC changed the definition of “vaccination” from “the act of introducing a vaccine into the body to produce immunity to a specific disease” to “the act of introducing a vaccine into the body to produce protection to a specific disease.”<sup>39</sup> (emphases added)

However, this newly created CDC definition

---

<sup>34</sup> Allen, R. “Oxford Scientist ‘It’s Illogical & Unethical To Force Jab On NHS Staff.” *The Richie Allen Radio Show* (September 9, 2021). <https://richieallen.co.uk/oxford-scientist-its-illogical-unethical-to-force-jab-on-nhs-staff/>

<sup>35</sup> “US sports leagues cope with COVID-19 outbreaks amid variants.” *Associated Press* (December 15, 2021). <https://www.foxnews.com/sports/us-sports-leagues-cope-with-covid-19-outbreaks-amid-variants>

<sup>36</sup> Lemos, G., *et al.* “17 Covid-19 cases identified on New Orleans-bound cruise ship.” *CNN* (December 5, 2021). <https://www.cnn.com/2021/12/05/us/cruise-ship-norwegian-breakaway-covid-cases/index.html>

<sup>37</sup> Chasmar, J. “Psaki doesn’t deny White House COVID-19 outbreak.” *Yahoo News*. (December 20, 2021). <https://www.foxnews.com/politics/psaki-white-house-covid-19-outbreak>

<sup>38</sup> Al-Arshani, S. “Moderna’s chief medical officer says that vaccine trial results only show that they prevent people from getting sick—not necessarily that recipients won’t still be able to transmit the virus.” *BusinessInsider*. (November 2020) <https://www.businessinsider.com/moderna-chief-medical-officer-vaccines-interview-2020-11>

<sup>39</sup> Attkisson, S. “CDC changes definition of ‘vaccines’ to fit Covid-19 vaccine limitations.” (September 8, 2021). <https://sharylattkisson.com/2021/09/read-cdc-changes-definition-of-vaccines-to-fit-covid-19-vaccine-limitations/>

conflicts with the statutory criteria for a vaccine, which focuses solely upon immunity. In 1986, Congress passed 42 U.S.C. § 300aa-1, which established “a National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization.” (emphasis added). From a public health and legal standpoint, immunization is the *sine qua non* of vaccination. Since they do not create immunity but are claimed to merely reduce the symptoms of the disease, the so-called COVID-19 “vaccines” are treatments, not vaccines.<sup>40</sup>

Even the FDA classified them as “CBER-Regulated Biologics” otherwise known as “therapeutics,” under the “Coronavirus Treatment Acceleration Program.”<sup>41</sup>

It is well-established that experimental drugs which are only available under FDA emergency use authorization can only be offered on a strictly voluntary basis to human subjects, upon “informed consent” and after full disclosure under 21 U.S.C. § 360bbb-3, which mandates that all EUA experi-

---

<sup>40</sup> See, e.g., *Moderna Program Patents*. (December 2021). <https://www.modernatx.com/patents>

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

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

“Comirnaty.Vaccines, Blood, and Biologics.” (December 2021). <https://www.fda.gov/vaccines-blood-biologics/comirnaty>

<sup>41</sup> “Coronavirus (COVID-19)|CBER-Regulated Biologics.” (2021). <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologic>

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

mental biological agents are strictly voluntary, subject to informed consent, and with “the option to accept or refuse administration of the product.”

*Amici Curiae* adopt Petitioner’s argument that there is a private right of action under 21 U.S.C. § 360bbb-3. Even assuming that there is no private right of action under 21 U.S.C. § 360bbb-3, it remains well-established that federal law mandates that the administration of experimental biological agents like the COVID-19 “vaccines” are strictly voluntary, requiring informed consent after full disclosure of risks.

The “informed consent” Nuremberg principles have been largely codified in federal law through the adoption of 21 C.F.R. § 50:20, 21 C.F.R. § 50:25, and 45 C.F.R. § 46, entitled “Protection of Human Subjects,” also known as the “Common Rule.”<sup>42</sup> This law guarantees that experimental drugs must only be offered on a voluntary basis after full disclosure of risks, and with voluntary informed consent free from coercion. *See* 21 U.S.C. § 360bbb-3, 21 C.F.R. § 50:20, 21 C.F.R. § 50:25, and 45 C.F.R. § 46.116.

The existence or non-existence of a private right of action does not nullify this important law. That this federal law remains fully binding upon Respondents is beyond debate. Respondents cannot argue that they can evade, violate, or willfully ignore this law with impunity. Just because injured patients might have difficulty enforcing the law, doctors should not be required to downplay it. As they say, no one is above the law.

These informed consent provisions are fully binding upon Oregon doctors, including Petitioner Dr. Thomas and the Respondent Board doctors.

---

<sup>42</sup> <https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html>

Indeed, some state Attorneys General have warned state medical boards and pharmacy boards against interfering with the protected doctor/patient relationship in their choice to use legal, off-label drugs.<sup>43</sup> The ability of physicians to freely recommend all legal options to patients, as an exercise of physician free speech, cannot be chilled by the threat of medical board censorship.

Further, the constitutional principles guaranteeing every individual the right to refuse medical treatment and the right of personal bodily integrity are similarly well-established, and were also willfully ignored by the Respondents in their unwritten vaccine ideology rule. *See Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261, 270 (1990) (“the logical corollary of the doctrine of informed consent is that the patient generally possesses the right not to consent, that is, to refuse treatment.”)

“The Fourteenth Amendment provides that no State shall ‘deprive any person of life, liberty, or property, without due process of law.’ The principle that a competent person has a constitutionally protected liberty interest in refusing unwanted medical treatment may be inferred from our prior decisions.” *Id.*, at 278. *See also Washington v. Glucksberg*, 521 U.S. 702, 720 (1990).

The principle of human autonomy and the right to a true exercise of choice is abundantly established. *See Washington v. Harper*, 494 U.S. 210, 229 (1990) (“the forcible injection of medication into a nonconsenting person’s body represents a substantial interference with that person’s liberty”); *Schloendorff v. Society of New York Hospital*, 211 N.Y. 125, 129–

---

<sup>43</sup> Horowitz, D. “Louisiana AG Jeff Landry warns pharmacies against blocking COVID treatment.” (September 27, 2021). <https://www.theblaze.com/columns/opinion/horowitz-louisiana-ag-jeff-landry-warns-pharmacies-against-blocking-covid-treatment>

130 (1914) (“[e]very human being of adult years and sound mind has a right to determine what shall be done with his own body”); *Canterbury v. Spence*, 464 F.2d 772, 780 (1972) (“the root premise is the concept, fundamental in American jurisprudence, that ‘[e]very human being of adult years and sound mind has a right to determine what shall be done with his body...’ True consent to what happens to one’s self is the informed exercise of a choice.”)

*See Doe #1 v. Rumsfeld*, 297 F. Supp. 2d 119, 134–35 (D.D.C. 2003) (“United States cannot demand that members of the armed forces also serve as guinea pigs for experimental drugs.” (emphasis added)); *see also Downer v. Veilleux*, 322 A.2d 82, 89–92 (Me. 1974), *Cobbs v. Grant*, 8 Cal.3d 229, 242–243 (1972).

Courts have consistently upheld the patient's well-established right to refuse unwanted medical treatments on constitutional grounds for decades. In *Vacco v. Quill*, 521 U.S. 793, 800 (1997), the Supreme Court stated, “Everyone, regardless of physical condition, is entitled, if competent, to refuse unwanted lifesaving medical treatment.” *See also Mills v. Rogers*, 457 U.S. 291, 301 (1982), *In re Guardianship of Roe*, 383 Mass. 415, 433–443 (1981), *Riggins v. Nevada*, 504 U.S. 127, 133–137(1992), and *Sell v. United States*, 539 U.S. 166, 177–186 (2003), all cases which recognize the constitutional right to refuse forced medications, absent strict legal standards and judicial determinations.

The medical board here imposed its own medical dogma without considering valid scientific data, and arbitrarily punished a doctor who pursued scientific data to inform his patients. Taking away his license to practice medicine not only deprived Dr. Thomas of his property interest without due process, but will have the effect of chilling physician free speech and

evidence-based medical practice altogether. Such deliberate disregard, even contempt, for new medical knowledge also stifles the dissemination of important medical findings, and suffocates any innovations which have the potential to lead to better informed patients and better health. It is counterproductive, anti-medicine, and unconstitutional.

## CONCLUSION

Petitioner Dr. Thomas was absolutely correct in providing accurate medical information to his grateful patients, consistent with his obligation of providing his patients informed consent and with his Hippocratic Oath. *Amici Curiae* maintain, supported by voluminous scientific research, that Dr. Thomas is correct. The experimental mRNA injections added to the childhood vaccination schedule neither stop infection nor transmission. They are optional medical treatments only. Respondent Board members and investigators are clearly not entitled to *quasi-judicial* or absolute immunity for their misguided persecution of Dr. Thomas, once the relevant judicial immunity legal factors and medical realities are fairly considered.

The Petition for *Certiorari* should be granted.

– 25 –

Respectfully submitted,

DR. SIMONE GOLD, M. D., J.D.

DAVID A. DALIA  
*Counsel of Record*  
Attorney at Law  
700 Camp Street  
New Orleans, LA 70130  
(504) 524-5541  
davidadalia@gmail.com

*Counsel for Amici Curiae,  
America's Frontline Doctors and  
Dr. Simone Gold, M.D., J.D.*

February 14, 2025