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8  
9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 CORAZON DE CRISTO  
12 CANO; TERRY HARDIN;  
13 CRYSTAL IRVIN;  
14 ANGELINA PINAHARDIN;  
15 JEANNETTE SALE; JEFF  
16 AHLERS; TANYA  
17 ALLEMANG; MOHAMAD  
18 BACHROUCHE; LOGAN  
19 BARNES; JEFF BOHI;  
20 JAMES BOOTH; SUSAN  
21 BRUYERE; JOHN  
22 CALIGIURI; STEPHANIE  
23 CALIGIURI; RICARDO  
24 CHAVEZ; NAOMI CHIBA;  
25 JOSEF CHRIST; NICHOLAS  
26 CHRISTIANSEN;  
27 MARGARET CLARK; ANN  
28 COLT; DAVID COURRET-  
KNIGHT; NEIL CUSTER;  
SHAWN DANNEKER;  
SHAD DAVIS; SCOTT  
DAWSON; DARRYN  
DELINE; GREGG  
DILLINGHAM; JARED  
DOMINICK; TERESA  
DOMINICK; KATHYRN

Case No. '22CV0193 CAB AHG

**COMPLAINT**

(Jury Trial Demanded)

1 DRAPER; ANTHONY  
2 DRAY; MARIE DREYER;  
3 MICHELLE DUNCAN;  
4 DAVID EDEWAARD;  
5 MARY RUTH EDWARDS;  
6 HEIDI FERNANDEZ;  
7 JENNIFER FISH; DOROTHY  
8 FRENZEL; SHARON  
9 FREELAND; ROBERT  
10 FREY; JANET FRIESZ; LISA  
11 FROST; JOHN GRANT;  
12 ROGER GRAVES;  
13 MATTHEW GRAY; JERRY  
14 GRIDLEY; JOE HANNA;  
15 DOUGLAS HART;  
16 MARGUERITE HART;  
17 CHAMISE HARTMAN;  
18 PAMELA HARTSOCK;  
19 JAMIE HEIJAMNS; LARRY  
20 HERBERT; JAMES  
21 HORTON; DAWNETTE  
22 HUNTER; RON IRVIN;  
23 SAMANTHA KEEGAN;  
24 JOHN KEISLING; JEFF  
25 JENSEN; DWIGHT KING;  
26 ERIKA JORDAN; JASON  
27 KOFOED; LINDSAY  
28 LIBERTO; SAM LOPEZ;  
GALE LYON; MORGAN  
MAGILL; LISA MCCLAIN;  
JEFFREY MCCOY;  
KATHLEEN MCCOY;  
LANCE MCDONALD;  
TRENT MOONEY; TIM  
MORONEY; JOELLE MOSS;  
JULIA MYERS; JEFF  
NEILSON; KEITH  
NEWBERRY; YANA  
NOYOLA; PATRICK  
PAESCHKE; RANDALL  
PERKES; DOUGLAS  
PERKINS; BRYAN

1 RAEDER; JOHN RANDALL;  
 2 KEVIN REBERGER;  
 3 CAROL REID; RAMON  
 4 RIOJAS; MATTHEW REED;  
 5 TRACEY RITTENBACH;  
 6 JENNIFER ROAMES;  
 7 SUSAN ROGERS;  
 8 MISHELLE RUSSELL;  
 9 TONY SAVINO; NANCY  
 10 SCALA; KAREN SHULTZ;  
 11 BRITTANY SKAAR; MARK  
 12 SMITH; JAMES SNYDER;  
 13 TIM SOLBERG; MATT  
 14 STERBA; ROGER  
 15 SZELMECZKA; KEIRA  
 16 TAYLOR; DOUGLAS  
 17 TEACHOUT; JARRID  
 18 THOMSON; JAMES  
 19 THORNE; VICTOR  
 20 TVERDOKHLEB; EVA  
 21 UPCHURCH; RACHEL  
 22 WALDRON; MARK  
 23 WATSON; SCOTT WEIDLE;  
 24 ANTHONY WILSON; PAUL  
 25 WINGER; ROBERT WOOD;  
 26 MYRA WYNN; and  
 27 TIFFANY ZERANGUE;  
 28

*Plaintiffs,*

v.

22 JOSEPH R. BIDEN, in his  
 23 official capacity as President  
 24 of the United States; SAFER  
 25 FEDERAL WORKFORCE  
 26 TASK FORCE (“TASK  
 27 FORCE”); UNITED STATES  
 28 OFFICE OF PERSONNEL  
 MANAGEMENT; KIRAN  
 AHUJA, in her official  
 capacity as director of the

1 OFFICE OF PERSONNEL  
2 MANAGEMENT and as co-  
3 chair of the TASK FORCE;  
4 GENERAL SERVICES  
5 ADMINISTRATION; ROBIN  
6 CARNAHAN, in her official  
7 capacity as administrator of  
8 the GENERAL SERVICES  
9 ADMINISTRATION and as  
10 co-chair of the TASK FORCE;  
11 JEFFREY ZIENTS, in his  
12 official capacity as co-chair of  
13 the TASK FORCE and  
14 COVID-19 Response  
15 Coordinator; CENTERS FOR  
16 DISEASE CONTROL AND  
17 PREVENTION; ROCHELLE  
18 P. WALENSKY, in her  
19 official capacity as Director of  
20 the CENTERS FOR DISEASE  
21 CONTROL AND  
22 PREVENTION and member  
23 of the TASK FORCE;  
24 DEPARTMENT OF  
25 VETERANS AFFAIRS;  
26 DENIS MCDONOUGH, in  
27 his official capacity as  
28 Secretary of the  
DEPARTMENT OF  
VETERANS AFFAIRS and  
member of the TASK FORCE;  
DEANNE CRISWELL, in her  
official capacity as  
Administrator of the  
FEDERAL EMERGENCY  
MANAGEMENT AGENCY  
and member of the TASK  
FORCE; L. ERIC  
PATTERSON, in his official  
capacity as Director of the  
FEDERAL PROTECTIVE  
SERVICE and member of the



1 TASK FORCE; OFFICE OF  
2 MANAGEMENT AND  
3 BUDGET; SHALANDA  
4 YOUNG, in her official  
5 capacity as Director of the  
6 OFFICE OF MANAGEMENT  
7 AND BUDGET and member  
8 of the TASK FORCE; JAMES  
9 M. MURRAY, in his official  
10 capacity as Director of the  
11 UNITED STATES SECRET  
12 SERVICE and member of the  
13 TASK FORCE; and the  
14 UNITED STATES OF  
15 AMERICA,

16 *Defendants.*

## 17 INTRODUCTION

18 1. We cannot put away and forget the Constitution, even in a  
19 pandemic, *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. \_\_\_\_, 14  
20 S.Ct. 63, 68 (2020)(per curiam), for a minutia of hope that infringing on such  
21 constitutional fundamental liberties would bring about the end to Covid-19, or a  
22 “Path out of the Pandemic,”<sup>1</sup> when, in fact, that will not be the case. The United  
23 States Supreme Court gave us this stark reminder early in the pandemic, and we  
24 must take heed of that warning.

25 2. Viruses like COVID-19 will never be fully eradicated from society.  
26 If not COVID-19, it will be the gamma variant, the delta variant, the omicron  
27

28 <sup>1</sup> [President Biden's COVID-19 Plan | The White House ; https://www.whitehouse.gov/covidplan/#vaccinate](https://www.whitehouse.gov/covidplan/#vaccinate)

1 variant, or any other variant or sub-variant of COVID-19 that will inevitably  
2 make itself known in the coming months and years.

3           3.       However, the President of the United States has, in fact, put away  
4 and forgotten the Constitution, to “halt the spread of coronavirus disease” – not  
5 to eradicate the disease. On his own accord, the President has issued two vaccine  
6 mandates (Executive Orders), forcing federal employees and federal contractors  
7 to receive one of the experimental COVID-19 vaccines, or lose their jobs.  
8  
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10           4.       In creating and implementing these vaccine mandates, the President  
11 has usurped the powers belonging to Congress, and to the States, and he has used  
12 these wrongfully obtained powers in violation of our fundamental constitutional  
13 rights, to the detriment of federal employees and federal contractor employees,  
14 and their families.  
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17           5.       The President’s actions are in direct contravention to his Executive  
18 obligation that “he shall take Care that the Laws be faithfully executed...” U.S.  
19 Const. Art. II, § 3.  
20

21           6.       These outright constitutional violations are egregious and  
22 distasteful, to say the least, and the President has completely exceeded his  
23 authority in this regard.  
24

25           7.       Even worse, President Biden has made his disdain clear for those  
26 who choose to remain unvaccinated. In his speech outlining his administration’s  
27 plan to stop the spread of the Delta variant, and to implement these vaccine  
28

1 mandates, he made clear his animus for the unvaccinated, when he stated, “our  
2 patience is wearing thin, and your refusal has cost all of us.”<sup>2</sup>

3 8. However, according to the guidance from the Centers for Disease  
4 Control and Prevention (“CDC”) for fully vaccinated individuals, it states that,  
5 “[t]o reduce the risk of becoming infected with SARS-CoV-2 (the virus that  
6 causes COVID-19) including the Delta variant, and potentially spreading it to  
7 others, CDC recommends that fully vaccinated people: [w]ear a mask indoors in  
8 public if they are in an area of substantial or high transmission.”<sup>3</sup> In this, and in  
9 other announcements, the CDC has made it clear that fully vaccinated people still  
10 can, and do, transmit, and can, and do, contract, the virus.

11 9. To that end, the President’s vaccine mandates have gone beyond the  
12 realm of common sense, and into the realm of tyranny.

13 10. The message delivered by the President and the federal government  
14 has been received loud and clear. That message is this: those who remain  
15 unvaccinated will be treated as second class citizens, ineligible for employment  
16 by, or from contracting with, the federal government.

17 11. The President’s vaccine mandates have also placed Plaintiffs in a  
18 precarious situation of forced injection of these experimental, unapproved,  
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27 <sup>2</sup> [Remarks by President Biden on Fighting the COVID-19 Pandemic | The White House;](https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/)  
<https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/>

28 <sup>3</sup> [Interim Public Health Recommendations for Fully Vaccinated People | CDC;](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html)  
<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

1 vaccinations, or risk losing their employment, and, according to some federal  
2 managers, losing their pensions and their benefits, including those for their  
3 families.

4  
5 12. A deadline was set by the Safer Federal Workforce Task Force  
6 (“Task Force”), at the behest of President Biden’s Executive Order 14043, of  
7 November 22, 2021, for all federal employees and contractors’ employees to be  
8 fully vaccinated. If Plaintiffs do not comply with being fully vaccinated, pursuant  
9 to the Vaccine Mandates, and have not been provided with an exemption, then  
10 the various federal agencies, including Defendants herein, have promised to  
11 pursue disciplinary actions, up to and including removal from federal service,  
12 and/or termination from their jobs with federal contractors.

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14  
15 13. Although this deadline has been pushed back or put on hold, several  
16 Plaintiffs are already being disciplined and terminated for remaining  
17 unvaccinated.

18  
19 14. Moreover, beginning November 9, 2021, the Task Force has given  
20 federal agencies, including Defendants herein, the authorization to begin the  
21 disciplinary process prior to the November 21, 2021, deadline for federal  
22 employees and contractors’ employees who refuse to comply with the vaccine  
23 mandate. The November 9, 2021, date was given because a period of two weeks  
24 is required from the final dose of either of the three experimental vaccines that is  
25 received in order for the person to be considered fully vaccinated.

1           15. In true bureaucratic fashion, on November 4, 2021, the U.S.  
2 Department of Labor’s Occupational Safety and Health Administration  
3 (“OSHA”) announced a vaccine mandate for private businesses with 100 or more  
4 employees, under which said employees would be forced to be vaccinated by  
5 January 4, 2022.<sup>4</sup>

7           16. Pursuant to OSHA’s announcement, the White house stated that, in  
8 order to streamline implementation of the vaccine mandate deadlines, the  
9 deadline for federal contractors’ employee’s vaccine requirement would be  
10 aligned with the OSHA deadline of January 4, 2021.<sup>5</sup>

12           17. At the outset, the OSHA mandate was enjoined by the U.S. Fifth  
13 Circuit Court of Appeals, wherein OSHA was ordered to “take no steps to  
14 implement or enforce the Mandate until further court order.” *BST Holdings, LLC*  
15 *v. Occupational Safety and Health Administration*, 17 F.4th 604, 619 (5th Cir.  
16 2021). However, on December 17, 2021, the Sixth Circuit Court of Appeals  
17 dissolved the stay issued by the Fifth Circuit. *In re MCP NO. 165*, 21 F.4th 357,  
18 366 (6th Cir. 2021). Fortunately, on January 13, 2022, the Supreme Court  
19 disagreed with the Sixth Circuit’s conclusion to dissolve the stay and issued a  
20 stay of OSHA’s COVID-19 Vaccination and Testing; Emergency Temporary  
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26 <sup>4</sup> [Federal Register :: COVID-19 Vaccination and Testing; Emergency Temporary Standard;](https://www.federalregister.gov/documents/2021/11/05/2021-23643/covid-19-vaccination-and-testing-emergency-temporary-standard#p-1730)  
27 [https://www.federalregister.gov/documents/2021/11/05/2021-23643/covid-19-vaccination-and-testing-](https://www.federalregister.gov/documents/2021/11/05/2021-23643/covid-19-vaccination-and-testing-emergency-temporary-standard#p-1730)  
28 [emergency-temporary-standard#p-1730](https://www.federalregister.gov/documents/2021/11/05/2021-23643/covid-19-vaccination-and-testing-emergency-temporary-standard#p-1730)

<sup>5</sup> [Fact Sheet: Biden Administration Announces Details of Two Major Vaccination Policies | The White House;](https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/)  
[https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-](https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/)  
[announces-details-of-two-major-vaccination-policies/](https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/)

1 Standard. *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety &*  
2 *Health Admin.*, 595 U.S. \_\_\_\_, 142 S.Ct. 661, 663 and 664 (2022) (per curiam).

3 18. It is safe to say that OSHA has clearly overstepped their boundaries  
4 and constitutional limitations, as they have since withdrawn their vaccine or test  
5 mandate for private businesses with 100 or more employees after the U.S.  
6 Supreme Court blocked their mandate<sup>6</sup>.  
7

8 19. Similarly, the President of the United States, all of the federal  
9 agencies, including Defendants herein, and federal contractors have also  
10 overstepped their boundaries and constitutional limits when they followed suit in  
11 an attempt to hijack the fundamental God given rights of Plaintiffs, and all  
12 similarly situated federal employees and federal contractor employees.  
13

14 20. Plaintiffs have valiantly decided to opt out of taking any of the  
15 experimental vaccines and have, instead, decided to stand up for their  
16 constitutional rights, despite these dictatorial vaccine mandates. Some may say  
17 that their efforts are silly, and that mandatory vaccinations are insignificant, or  
18 make comments like, "just get the vaccine," however, Plaintiffs realize that if  
19 they do not take a stand now, the mandatory vaccinations will spiral into  
20 something much worse, such as the unvaccinated being withheld from essential  
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28 <sup>6</sup> [U.S. Labor Dept withdrawing COVID vaccine rule for large employers \(yahoo.com\); https://news.yahoo.com/u-labor-dept-withdrawing-covid-165443565.html](https://news.yahoo.com/u-labor-dept-withdrawing-covid-165443565.html)

1 practices for day-to-day living, like banking, grocery shopping, and even the use  
2 of medical facilities.

3 21. Although this may seem to be a stretch of the imagination, the Court  
4 will recall that when this virus began, many of us, including government officials  
5 and the judiciary, did not think that “two weeks to flatten the curve” would turn  
6 into “no mask no entry,” which then became “no vaccine no entry,” and has  
7 officially turned into “no jab no job,” within the span of a year and eleven  
8 months.  
9

10 22. There will soon come a time where all those who remain  
11 unvaccinated will be officially shunned from society if this Court does not act  
12 now and acknowledge the farce that this vaccine mandate claims to be, which is  
13 “[t]o ensure the safety of the Federal workforce.” When, in fact, this vaccine  
14 mandate is penalizing the naturally immune and legally exempt, and, in actuality,  
15 is masquerading as a pretense for “comply or else,” which boils down to outright  
16 tyranny.  
17

18 23. The President’s vaccine mandates also constitute an unconstitutional  
19 condition for employment wherein, at the stroke of a pen, the President has  
20 required millions of federal employees and federal contractor employees to  
21 undergo a medical procedure as a condition of their employment. The vaccine  
22 mandates are poorly calibrated to protect the public health, while posing  
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1 disproportionate risks to some of its targets, which renders the vaccine mandates  
2 an unlawful condition insufficiently germane to its purported purpose.

3         24. Furthermore, the disciplinary and other burdens that Defendants are  
4 using to leverage ostensibly voluntary compliance with its vaccine mandates are  
5 not proportional to the purported public health aims. Therefore, the vaccine  
6 mandates represent an unconstitutional employment condition being applied to  
7 Plaintiffs' constitutional rights to bodily integrity and informed medical choice.  
8  
9

10         25. Plaintiffs will not be coerced and subjected to discriminatory  
11 practices, and violations of their bodily autonomy and integrity, while their  
12 constitutional and statutory rights are being bypassed and overlooked for the sake  
13 of medical and political subjugation.  
14

15         26. The vaccine mandate is clearly a violation of the U.S. Constitution,  
16 as well as the fundamental rights of the Plaintiffs, and it will continue its  
17 stranglehold around the necks of the working federal employees and contractor'  
18 employees, until they are choked out of their jobs, or they are forced into  
19 receiving an experimental vaccination that they never wanted in their bodies to  
20 begin with.  
21  
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23         27. The President of the United States, all federal agencies, including  
24 Defendants herein, and federal contractors have gone a bridge too far with their  
25 tyrannical decrees of a vaccine mandate, and the Court should, therefore, declare  
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28



1 the mandates, and their accompanying actions, illegal, and enjoin all Defendants  
2 from enforcing them.

### 3 **PARTIES**

#### 4 *Plaintiffs*

5  
6 28. Plaintiff, Corazon de Cristo Cano, resides in California, is an  
7 employee of Solute located in California, is a federal contractor subject to  
8 Executive Order 14042, and has submitted a religious exemption that has been  
9 accepted.  
10

11 29. Plaintiff, Terry Hardin, resides in California, is an employee of the  
12 United States Navy located in California, is a federal employee subject to  
13 Executive Order 14043, and has submitted a religious exemption that is still  
14 pending.  
15

16 30. Plaintiff, Crystal Irvin, resides in California, is an employee of the  
17 Naval Facilities Engineering Systems Command located in California, is a  
18 federal employee subject to Executive Order 14043, and has submitted a  
19 religious exemption that has received no response.  
20

21 31. Plaintiff, Angelina PinaHardin, resides in California, is an employee  
22 of the United States Navy located in California, is a federal employee subject to  
23 Executive Order 14043, and has submitted a religious exemption that is still  
24 pending.  
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1           32. Plaintiff, Jeannette Sale, resides in Texas, is an employee of the  
2 Naval Facilities Engineering Systems Command – Department of Navy located  
3 in Texas, is a federal employee subject to Executive Order 14043, and has  
4 submitted a religious exemption that has been denied.  
5

6           33. Plaintiff, Jeff Ahlers, resides in Washington, is an employee of the  
7 Central Plateau Cleanup Company – An Amentum, Fluor Atkins LLC located in  
8 Washington, is a federal contractor subject to Executive Order 14042, has  
9 submitted a religious exemption that has been denied, and he has been forced  
10 into retirement from his employment.  
11  
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13           34. Plaintiff, Tanya Allemang, resides in Kansas, is an employee of the  
14 United States Department of Agriculture – National Resource Conservation  
15 Service located in Kansas, is a federal employee subject to Executive Order  
16 14043, and has submitted a religious exemption that has not received a response.  
17

18           35. Plaintiff, Mohamad Bachrouche, resides in Florida, is an employee  
19 of the Department of Defense – Department of the Army – Shades of Green  
20 located in Florida, is a federal employee subject to Executive Order 14043, and  
21 has submitted a religious exemption that is pending.  
22

23           36. Plaintiff, Logan Barnes, resides in Washington, is an employee of  
24 the Pacific Northwest National Laboratory located in Washington, is a federal  
25 contractor subject to Executive Order 14042, and has submitted a religious  
26 exemption that was denied.  
27  
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1           37. Plaintiff, Jeff Bohi, resides in Idaho, is an employee of the Battelle  
2 Energy Alliance LLC located in Idaho, is a federal contractor subject to  
3 Executive Order 14042, has submitted a religious exemption that was denied,  
4 and he has been terminated from his employment.  
5

6           38. Plaintiff, James Booth, resides in Washington, is an employee of the  
7 Bechtel National Inc located in Washington, is a federal contractor subject to  
8 Executive Order 14042, and has submitted a religious exemption that was  
9 temporarily granted.  
10

11           39. Plaintiff, Susan Bruyere, resides in Idaho, is an employee of the  
12 Battelle Energy Alliance – Idaho National Laboratory located in Idaho, is a federal  
13 contractor subject to Executive Order 14042, has submitted a religious  
14 exemption that was denied three times, and she has been forced into retirement.  
15  
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17           40. Plaintiff, John Caligiuri, resides in Texas, is an employee of the  
18 United States Border Patrol – Customs and Border Protection – Department of  
19 Homeland Security located in Texas, is a federal employee subject to Executive  
20 Order 14043, and has submitted a religious exemption that has received no  
21 response.  
22

23           41. Plaintiff, Stephanie Caligiuri, resides in Texas, is an employee of  
24 the United States Border Patrol – Customs and Border Protection – Department  
25 of Homeland Security located in Texas, is a federal employee subject to  
26 Executive Order 14043, and has submitted a religious exemption that has  
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1 received no response.

2 42. Plaintiff, Ricardo Chavez, resides in Texas, is an employee of Fluor  
3 – Idaho – ICP located in Texas, is a federal contractor subject to Executive Order  
4 14042, and has submitted a religious exemption where he has been informed that  
5 it would be accepted.  
6

7 43. Plaintiff, Naomi Chiba, resides in California, is an employee of the  
8 Department of Homeland Security – United States Citizenship and Immigration  
9 Services located in California, is a federal employee subject to Executive Order  
10 14043, and has submitted a religious exemption that has received no response.  
11  
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13 44. Plaintiff, Josef Christ, resides in Washington, is an employee of the  
14 Pacific Northwest National Laboratory located in Washington, is a federal  
15 contractor subject to Executive Order 14042, and has submitted a religious  
16 exemption that has been accepted.  
17

18 45. Plaintiff, Nicholas Christiansen, resides in Idaho, is an employee of  
19 the Battelle Energy Alliance – Idaho National Laboratory located in Idaho, is a  
20 federal contractor subject to Executive Order 14042, and has been terminated  
21 from his employment for speaking out against the vaccine mandates.  
22

23 46. Plaintiff, Margaret Clark, resides in Washington, is an employee of  
24 the Central Plateau Cleanup Company located in Washington, is a federal  
25 contractor subject to Executive Order 14042, and has submitted a religious  
26 exemption that was accepted with temporary accommodations until March of  
27  
28

1 2022.

2 47. Plaintiff, Ann Colt, resides in California, is an employee of the  
3 Naval Facilities Engineering Systems Command located in California, is a  
4 federal employee subject to Executive Order 14043, and has submitted a  
5 religious exemption that is still pending.  
6

7 48. Plaintiff, David Courret-Knight, resides in Washington DC, is an  
8 employee of the Internal Revenue Services located in Washington DC, is a  
9 federal employee subject to Executive Order 14043, and has submitted a  
10 religious exemption that has been denied.  
11  
12

13 49. Plaintiff, Neil Custer, resides in Washington, is an employee of the  
14 United States Army Corps of Engineers located in Washington, is a federal  
15 employee subject to Executive Order 14043, and has submitted a religious  
16 exemption that has received no response.  
17

18 50. Plaintiff, Shawn Danneker, resides in Virginia, is an employee of  
19 the Fort Lee Fire and Emergency Services located in Virginia, is a federal  
20 employee subject to Executive Order 14043, and has submitted a religious  
21 exemption that has received no response.  
22

23 51. Plaintiff, Shad Davis, resides in Idaho, is an employee of the Idaho  
24 National Laboratory operated by Battelle Energy Alliance located in Idaho, is a  
25 federal contractor subject to Executive Order 14042, and has submitted a  
26 religious exemption that was denied.  
27  
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1           52. Plaintiff, Scott Dawson, resides in Washington, is an employee of  
2 the Washington River Protection Solutions located in Washington, is a federal  
3 contractor subject to Executive Order 14042, and has submitted a religious  
4 exemption that was accepted with no accommodations.  
5

6           53. Plaintiff, Darryn DeLine, resides in Washington, is an employee of  
7 Washington River Protection Solutions located in Washington, is a federal  
8 contractor subject to Executive Order 14042, and has submitted a religious  
9 exemption that was first denied and then later accepted.  
10

11           54. Plaintiff, Gregg Dillingham, resides in Washington, is an employee  
12 of the Washington River Protection Solutions located in Washington, is a federal  
13 contractor subject to Executive Order 14042, and has submitted a religious  
14 exemption that was accepted with no accommodations.  
15

16           55. Plaintiff, Jared Dominick, resides in Idaho, is an employee of Fluor  
17 Idaho, is a federal contractor subject to Executive Order 14042, and has  
18 submitted a religious exemption that has been accepted with conditional  
19 accommodations.  
20

21           56. Plaintiff, Teresa Dominick, resides in Idaho, is an employee of  
22 Fluor Idaho located in Idaho, is a federal contractor subject to Executive Order  
23 14042, and has submitted a religious exemption that has been accepted with  
24 conditional accommodations.  
25

26           57. Plaintiff, Kathryn Draper, resides in Washington, is an employee of  
27  
28

1 the Washington River Protection Solutions located in Washington, is a federal  
2 contractor subject to Executive Order 14042, and has submitted a religious  
3 exemption that has been conditionally accepted.  
4

5 58. Plaintiff, Anthony Dray, resides in California, is an employee of the  
6 Office of Field Operations Customs and Border Protection – Department of  
7 Homeland Security located in California, is a federal employee subject to  
8 Executive Order 14043, and has submitted a religious exemption that has  
9 received no decision.  
10

11 59. Plaintiff, Marie Dreyer, resides in California, is an employee of the  
12 Naval Facilities Engineering Systems Command Southwest located in California,  
13 is a federal employee subject to Executive Order 14043, and has submitted a  
14 religious exemption that has received no response.  
15  
16

17 60. Plaintiff, Michelle Duncan, resides in Washington, is an employee  
18 of the Pacific Northwest National Laboratory located in Washington, is a federal  
19 contractor subject to Executive Order 14042, and has submitted a religious  
20 exemption that has been temporarily approved.  
21

22 61. Plaintiff, David Edewaard, resides in Virginia, is an employee of the  
23 Boeing Company located in Virginia, is a federal contractor subject to Executive  
24 Order 14042, and has submitted a religious exemption that was granted pending  
25 a court review.  
26

27 62. Plaintiff, Mary Ruth Edwards, resides in Washington, is an  
28

1 employee of the Central Plateau Cleanup Company located in Washington, is a  
2 federal contractor subject to Executive Order 14042, and has submitted a  
3 religious exemption that was approved with her accommodations rejected.  
4

5 63. Plaintiff, Heidi Fernandez, resides in California, is an employee of  
6 General Atomics located in California, is a federal contractor subject to  
7 Executive Order 14042, and has submitted a religious exemption that has been  
8 approved.  
9

10 64. Plaintiff, Jennifer Fish, resides in Washington, is an employee of the  
11 Central Plateau Cleanup Company located in Washington, is a federal contractor  
12 subject to Executive Order 14042, and has submitted a religious exemption that  
13 was accepted with temporary accommodations.  
14

15 65. Plaintiff, Dorothy Frenzel, resides in Washington, is an employee of  
16 the Washington River Protections Solutions located in Washington, is a federal  
17 contractor subject to Executive Order 14042, and has been forced into  
18 resignation from her employment.  
19

20 66. Plaintiff, Sharon Freeland, resides in Washington, is an employee of  
21 the Veolia Nuclear Solutions- Federal Services with Prime Contractor Central  
22 Plateau Cleanup Company located in Washington, is a federal contractor subject  
23 to Executive Order 14042, and has submitted a religious exemption that has been  
24 denied.  
25

26 67. Plaintiff, Robert Frey, resides in Virginia, is an employee of the  
27  
28



1 Mid-Atlantic Regional Maintenance Center – United States Navy located in  
2 Virginia, is a federal employee subject to Executive Order 14043, and has  
3 submitted a religious exemption that has received no response.  
4

5 68. Plaintiff, Janet Friesz, resides in Washington, is an employee of the  
6 Central Plateau Cleanup Company located in Washington, is a federal contractor  
7 subject to Executive Order 14042, and has been forced into retirement.  
8

9 69. Plaintiff, Lisa Frost, resides in Idaho, is an employee of Fluor-Idaho  
10 located in Idaho, is a federal contractor subject to Executive Order 14042, and  
11 has submitted a religious exemption that has been approved.  
12

13 70. Plaintiff, John Grant, resides in California, is an employee of the  
14 Naval Air Systems Command – Naval Air Warfare Center Weapons Division  
15 located in California, is a federal employee subject to Executive Order 14043,  
16 and has submitted a religious exemption that has received no response.  
17

18 71. Plaintiff, Roger Graves, resides in Washington, is an employee of  
19 the Battelle – Pacific Northwest National Laboratory located in Washington, is a  
20 federal contractor subject to Executive Order 14042, has submitted a religious  
21 exemption that was denied, and he has been forced into retirement.  
22

23 72. Plaintiff, Matthew Gray, resides in Washington, is an employee of  
24 Hanford Mission Integrative Solutions located in Washington, is a federal  
25 contractor subject to Executive Order 14042, and has submitted a religious  
26 exemption that was accepted with no initial accommodations; however,  
27  
28

1 accommodations were given later.

2 73. Plaintiff, Jerry Gridley, resides in Washington, is an employee of  
3 the Hanford Mission Integrative Solutions located in Washington, is a federal  
4 contractor subject to Executive Order 14042, and has submitted a religious  
5 exemption that has been approved with temporary accommodations.  
6

7 74. Plaintiff, Joseph Hanna, resides in California, is an employee of the  
8 Naval Information Warfare Command – Pacific located in California, is a federal  
9 employee subject to Executive Order 14043, and has submitted a religious  
10 exemption that is still pending.  
11  
12

13 75. Plaintiff, Douglas Hart, resides in Washington, is an employee of  
14 the Hanford Mission Integration Solutions located in Washington, is a federal  
15 contractor subject to Executive Order 14042, and has submitted a religious  
16 exemption that is still pending.  
17

18 76. Plaintiff, Marguerite Hart, resides in Washington, is an employee of  
19 HPM Corporation located in Washington, is a federal contractor subject to  
20 Executive Order 14042, and has submitted a religious exemption that was  
21 accepted with temporary accommodations.  
22

23 77. Plaintiff, Chamise Hartman, resides in Washington, is an employee  
24 of the Washington River Protection Solutions located in Washington, is a federal  
25 contractor subject to Executive Order 14042, and has submitted a religious  
26 exemption that has received no response.  
27  
28

1           78. Plaintiff, Pamela Hartsock, resides in Washington, is an employee  
2 of the Central Plateau Cleanup Company located in Washington, is a federal  
3 contractor subject to Executive Order 14042, has submitted a religious  
4 exemption that has been denied, and has been forced into resignation from her  
5 employment.  
6

7           79. Plaintiff, Larry Herbert, resides in Washington, is an employee of  
8 the Washington River Protection Solutions located in Washington, is a federal  
9 contractor subject to Executive Order 14042, and has submitted a religious  
10 exemption that has been accepted.  
11  
12

13           80. Plaintiff, Jamie Heijmans, resides in Washington, is an employee of  
14 the Battelle Memorial Institute – Pacific Northwest National Laboratory located  
15 in Washington, is a federal contractor subject to Executive Order 14042, and has  
16 submitted a religious exemption that has been approved with temporary  
17 accommodations.  
18

19           81. Plaintiff, James Horton, resides in Washington, is an employee of  
20 the Central Plateau Cleanup Company located in Washington, is a federal  
21 contractor subject to Executive Order 14042, and has submitted a religious  
22 exemption that has been temporarily approved on conditions.  
23  
24

25           82. Plaintiff, Dawnette Hunter, resides in Idaho, is an employee of the  
26 Battelle Energy Alliance located in Idaho, is a federal contractor subject to  
27 Executive Order 14042, has submitted a religious exemption that has been  
28

1 denied, and she has been terminated from her employment.

2 83. Plaintiff, Ron Irvin, resides in California, is an employee of the  
3 Naval Information Warfare Center located in California, is a federal employee  
4 subject to Executive Order 14043, and has submitted a religious exemption that  
5 is still pending.  
6

7 84. Plaintiff, Jeffery Jensen, resides in Washington, is an employee of  
8 the Battelle Memorial Institute – Pacific Northwest National Laboratory located  
9 in Washington, is a federal contractor subject to Executive Order 14042, and has  
10 submitted a religious exemption that has been denied.  
11  
12

13 85. Plaintiff, Erika Jordan, resides in Washington, is an employee of  
14 Hanford Laboratory Management Integration – 222S Lab located in Washington,  
15 is a federal contractor subject to Executive Order 14042, has submitted a medical  
16 exemption that has been temporarily granted, and she will be employed until  
17 March 31, 2022.  
18

19 86. Plaintiff, Samantha Keegan, resides in Germany, is an employee of  
20 the Department of the Army located in Germany, is a federal employee subject to  
21 Executive Order 14043, and has submitted a religious exemption that has been  
22 acknowledged but is under review.  
23  
24

25 87. Plaintiff, John Keisling, resides in New Mexico, is an employee of  
26 Leidos located in New Mexico, is a federal contractor subject to Executive Order  
27 14042, and has submitted a religious exemption that has been approved subject  
28

1 to modification.

2 88. Plaintiff, Dwight King, resides in Arizona, is an employee of  
3 Raytheon located in Arizona, is a federal contractor subject to Executive Order  
4 14042, and has submitted a religious exemption that has been approved and a  
5 medical exemption that is pending.  
6

7 89. Plaintiff, Jason Kofoed, resides in Idaho, is an employee of the  
8 Idaho National Laboratory – Battelle Energy Alliance located in Idaho, is a  
9 federal contractor subject to Executive Order 14042, and has submitted a  
10 religious exemption that has been approved.  
11  
12

13 90. Plaintiff, Lindsay Liberto, resides in Maryland, is an employee of  
14 the Department of the Army located in Maryland, is a federal employee subject  
15 to Executive Order 14043, and has submitted a religious exemption that is still  
16 pending.  
17

18 91. Plaintiff, Sam Lopez, resides in California, is an employee of KZBT  
19 located in California, is a federal contractor subject to Executive Order 14042,  
20 and has submitted a religious exemption that is still pending.  
21

22 92. Plaintiff, Gale Lyon, resides in Washington, is an employee of the  
23 Central Plateau Closure Company located in Washington, is a federal contractor  
24 subject to Executive Order 14042, and has submitted a religious exemption that  
25 has been approved.  
26

27 93. Plaintiff, Morgan MaGill, resides in California, is an employee of  
28

1 the Department of Defense located in California, is a federal employee subject to  
2 Executive Order 14043, and has submitted a religious exemption that has  
3 received no response.  
4

5 94. Plaintiff, Lisa McClain, resides in California, is an employee of the  
6 Department of Defense Navy Space and Naval Warfare Systems Command –  
7 Naval Information Warfare Center located in California, is a federal employee  
8 subject to Executive Order 14043, and has submitted a religious exemption that  
9 is still pending.  
10

11 95. Plaintiff, Jeffrey McCoy, resides in California, is an employee of the  
12 United States Navy located in California, is a federal employee subject to  
13 Executive Order 14043, and has submitted a religious exemption and a medical  
14 exemption that are both still pending.  
15  
16

17 96. Plaintiff, Kathleen McCoy, resides in California, is an employee of  
18 the United States Navy located in California, is a federal employee subject to  
19 Executive Order 14043, and has submitted a religious exemption and a medical  
20 exemption that are both still pending.  
21

22 97. Plaintiff, Lance McDonald, resides in California, is an employee of  
23 the United States Navy – Department of Defense located in California, is a  
24 federal employee subject to Executive Order 14043, and has submitted a  
25 religious exemption that has received no response.  
26

27 98. Plaintiff, Trent Mooney, resides in Washington, is an employee of  
28

1 the Washington River Protection Solutions located in Washington, is a federal  
2 contractor subject to Executive Order 14042, and has submitted a religious  
3 exemption that has been granted with no accommodations.  
4

5 99. Plaintiff, Timothy Moroney, resides in California, is an employee of  
6 the Customs and Border Protection located in California, is a federal employee  
7 subject to Executive Order 14043, and has submitted a religious exemption that  
8 has received no response.  
9

10 100. Plaintiff, Joelle Moss, resides in Washington, is an employee of the  
11 Washington River Protection Solutions – Contractor to Department of Energy  
12 located in Washington, is a federal contractor subject to Executive Order 14042,  
13 and has submitted a religious exemption that has been approved.  
14

15 101. Plaintiff, Julia Myers, resides in Washington, is an employee of the  
16 Washington River Protection Solutions located in Washington, is a federal  
17 contractor subject to Executive Order 14042, and has submitted a religious  
18 exemption that was granted and then denied.  
19

20 102. Plaintiff, Keith Newberry, resides in Idaho, is an employee of the  
21 Battelle Energy Alliance Idaho National Laboratory located in Idaho, is a federal  
22 contractor subject to Executive Order 14042, has submitted a religious  
23 exemption that has been denied twice, and he has been terminated from his  
24 employment.  
25

26 103. Plaintiff, Jeffery Nielson, resides in Washington, is an employee of  
27  
28

1 the Washington River Protection Solutions located in Washington, is a federal  
2 contractor subject to Executive Order 14042, and has submitted a religious  
3 exemption that has been denied twice.  
4

5 104. Plaintiff, Yana Noyola, resides in California, is an employee of the  
6 Department of Homeland Security – United States Customs and Border  
7 Protection located in California, is a federal employee subject to Executive Order  
8 14043, and has submitted a religious exemption that has received no response.  
9

10 105. Plaintiff, Patrick Paeschke, resides in Washington, is an employee  
11 of the Battelle – Pacific Northwest National Laboratory located in Washington,  
12 is a federal contractor subject to Executive Order 14042, and has submitted a  
13 religious exemption that has been accepted conditionally.  
14

15 106. Plaintiff, Randall Perkes, resides in Washington, is an employee of  
16 the Central Plateau Cleanup Company located in Washington, is a federal  
17 contractor subject to Executive Order 14042.  
18

19 107. Plaintiff, Douglas Perkins, resides in Washington, is an employee of  
20 Amentum located in Washington, and is a federal contractor subject to Executive  
21 Order 14042.  
22

23 108. Plaintiff, Bryan Raeder, resides in Washington, is an employee of  
24 the Central Plateau Cleanup Company – Hanford located in Washington, is a  
25 federal contractor subject to Executive Order 14042, and has submitted a  
26 religious exemption that has been temporarily approved until March 18, 2022.  
27  
28



1           109. Plaintiff, John Randall, resides in California, is an employee of  
2 KBR Wyle located in California, is a federal contractor subject to Executive  
3 Order 14042, and has submitted a religious exemption that has been approved  
4 with conditions.  
5

6           110. Plaintiff, Kevin Reberger, resides in Washington, is an employee of  
7 the Washington River Protection Solutions located in Washington, is a federal  
8 contractor subject to Executive Order 14042, and has submitted a religious  
9 exemption that was first denied and later accepted with testing requirements.  
10

11           111. Plaintiff, Carol Reid, resides in Idaho, is an employee of the Idaho  
12 National Laboratory – Battelle Energy Alliance LLC located in Idaho, is a  
13 federal contractor subject to Executive Order 14042, and has submitted a  
14 religious exemption that has been accepted.  
15  
16

17           112. Plaintiff, Matthew Reed, resides in Washington, is an employee of  
18 the United States Border Patrol located in Washington, is a federal employee  
19 subject to Executive Order 14043, and has submitted a religious exemption that  
20 has received no response.  
21

22           113. Plaintiff, Ramon Riojas, resides in Washington, is an employee for  
23 the Central Plateau Cleanup Company located in Washington, is a federal  
24 contractor subject to Executive Order 14042, and has submitted a religious  
25 exemption that has been accepted.  
26

27           114. Plaintiff, Tracey Rittenbach, resides in Washington, is an employee  
28

1 of the Hanford Laboratory Management and Integration located in Washington,  
2 is a federal contractor subject to Executive Order 14042, and has submitted a  
3 religious exemption that has been temporarily approved.  
4

5 115. Plaintiff, Jennifer Roames, resides in Virginia, is an employee of the  
6 Naval Surface Warfare Center Dahlgren Division located in Virginia, is a federal  
7 employee subject to Executive Order 14043, and has submitted a religious  
8 exemption that is still pending.  
9

10 116. Plaintiff, Susan Rogers, resides in Pennsylvania, is an employee of  
11 the United States Department of Energy located in Washington DC, is a federal  
12 employee subject to Executive Order 14043, and has submitted a religious  
13 exemption that has received no response.  
14

15 117. Plaintiff, Mischelle Russell, resides in Washington, is an employee  
16 of the Central Plateau Cleanup Company located in Washington, is a federal  
17 contractor subject to Executive Order 14042, and has submitted a religious  
18 exemption that has been accepted but could not be accommodated.  
19  
20

21 118. Plaintiff, Anthony Savino, resides in Washington, is an employee of  
22 the Pacific Northwest National Laboratory located in Washington, is a federal  
23 contractor subject to Executive Order 14042, and has submitted a religious  
24 exemption that has been accepted.  
25

26 119. Plaintiff, Nancy Scala, resides in California, is an employee of the  
27 Scientific Research Corporation located in California, is a federal contractor  
28

1 subject to Executive Order 14042, and has submitted a religious exemption that  
2 has been conditionally granted.

3 120. Plaintiff, Karen Schultz, resides in California, is an employee of  
4 General Atomics located in California, is a federal contractor subject to  
5 Executive Order 14042, has submitted a religious exemption that has been  
6 approved conditionally, and has been forced into retirement.  
7

8 121. Plaintiff, Brittany Skaar, resides in Idaho, is an employee of  
9 MarCom LLC – Fluor Idaho – Idaho Environmental Coalition LLC located in  
10 Idaho, is a federal contractor subject to Executive Order 14043, and has  
11 submitted a religious exemption that has been granted with conditions.  
12

13 122. Plaintiff, Mark Smith, resides in Virginia, is an employee of the  
14 Small Business Administration – Federal government located in Virginia, is a  
15 federal employee subject to Executive Order 14043, and has submitted a  
16 religious exemption that has received no response.  
17

18 123. Plaintiff, James Snyder, resides in California, is an employee of  
19 Lockheed Martin located in California, is a federal contractor subject to  
20 Executive Order 14042, and has submitted a religious exemption that has been  
21 conditionally approved.  
22

23 124. Plaintiff, Tim Solberg, resides in California, is an employee of the  
24 Department of Defense – Defense Contract Management Agency located in the  
25 United Kingdom, is a federal employee subject to Executive Order 14043, and  
26  
27  
28

1 has submitted a religious exemption that has received no response.

2 125. Plaintiff, Matthew Sterba, resides in Washington, is an employee of  
3 the Pacific Northwest National Laboratory located in Washington, is a federal  
4 contractor subject to Executive Order 14042, has submitted a religious  
5 exemption that has been denied, and he has been placed on leave without pay.  
6

7 126. Plaintiff, Roger Szelmeczka, resides in Washington, is an employee  
8 of the Washington River Protection Solutions LLC located in Washington, is a  
9 federal contractor subject to Executive Order 14042, and has submitted a  
10 religious exemption that has been acknowledged but denied accommodations.  
11  
12

13 127. Plaintiff, Kiera Taylor, resides in Utah, is an employee of the  
14 Defense Contract Audit Agency located in Utah, is a federal employee subject to  
15 Executive Order 14043, and has submitted a religious exemption that has  
16 received no response.  
17

18 128. Plaintiff, Douglas Teachout, resides in Washington, is an employee  
19 of the Central Plateau Cleanup Company located in Washington, is a federal  
20 contractor subject to Executive Order 14042, and has submitted a religious  
21 exemption that has been approved with accommodations.  
22

23 129. Plaintiff, Jarrid Thomson, resides in Idaho, is an employee of the  
24 Battelle Energy Alliance – Idaho National Laboratory located in Idaho, is a  
25 federal contractor subject to Executive Order 14042, has submitted a religious  
26 exemption that has been denied, and he has been terminated from his  
27  
28

1 employment.

2 130. Plaintiff, James Thorne, resides in Washington, is an employee of  
3 the Washington River Protection Solutions located in Washington, is a federal  
4 contractor subject to Executive Order 14042, and has submitted a religious  
5 exemption that has been accepted with temporary accommodations.  
6

7 131. Plaintiff, Viktor Tverdokhle, resides in Washington, is an  
8 employee of the Hanford Central Plateau Cleanup Company located in  
9 Washington, is a federal contractor subject to Executive Order 14042, and has  
10 submitted a religious exemption that has been accepted.  
11  
12

13 132. Plaintiff, Eva Upchurch, resides in Washington, is an employee of  
14 the Central Plateau Cleanup Company located in Washington, is a federal  
15 contractor subject to Executive Order 14042, and has submitted a religious  
16 exemption that been approved with accommodations on hold.  
17

18 133. Plaintiff, Rachel Waldron, resides in Louisiana, is an employee of  
19 the Waterborne Commerce Statistics Center located in Louisiana, is a federal  
20 employee subject to Executive Order 14043, and has submitted a religious  
21 exemption that is still pending.  
22

23 134. Plaintiff, Mark Watson, resides in Washington, is an employee of  
24 the Pacific Northwest National Laboratory located in Washington, is a federal  
25 contractor subject to Executive Order 14042, and has submitted a religious  
26 exemption that has been granted.  
27  
28

1           135. Plaintiff, William Weidle, resides in Virginia, is an employee of the  
2 Naval Surface Warfare Center Carderock Division located in Maryland, is a  
3 federal employee subject to Executive Order 14043, and has submitted a  
4 religious exemption that is still pending.  
5

6           136. Plaintiff, Anthony Wilson, resides in California, is an employee of  
7 the Customs and Border Patrol located in California, is a federal employee  
8 subject to Executive Order 14043, and has submitted a religious exemption that  
9 has received no response.  
10

11           137. Plaintiff, Paul Winger, resides in Idaho, is an employee of the  
12 Battelle Energy Alliance located in Idaho, and is a federal contractor subject to  
13 Executive Order 14042, and has submitted a medical exemption that was denied.  
14

15           138. Plaintiff, Robert Wood, resides in Washington, is an employee of  
16 the Washington River Protection Solutions located in Washington, is a federal  
17 contractor subject to Executive Order 14042, and has submitted a religious  
18 exemption that has been accepted with temporary accommodations.  
19  
20

21           139. Plaintiff, Myra Wynn, resides in Virginia, is an employee of  
22 USfalcon located in Virginia, is a federal contractor subject to Executive Order  
23 14042, and has submitted a medical exemption that has received no response.  
24

25           140. Plaintiff, Tiffany Zerangue, resides in New Mexico, is an employee  
26 of the Treasury Internal Revenue Service located in New Mexico, is a federal  
27 employee subject to Executive Order 14043, and has submitted a religious  
28

1 exemption that is pending with temporary accommodations.

2 141. Plaintiffs, ROES 1 - 23 consists of 4 federal employees, and 19  
3 federal contractor employees, wherein 9 reside in the State of Washington, 3  
4 reside in Pennsylvania, 2 reside in California, 3 reside in Idaho, 1 resides in West  
5 Virginia, 1 resides in New Mexico, 1 resides in Virginia, 1 resides in South  
6 Carolina, 1 resides in New Hampshire, and 1 resides in Ohio. 18 ROES have  
7 submitted religious exemptions, wherein 1 has been approved, 1 has been  
8 approved with no accommodations, 1 has been approved pending resubmission,  
9 3 have been conditionally approved, 1 has been temporarily approved, 1 has been  
10 approved subject to future review, 1 has been accepted with unknown  
11 accommodations, 1 has been acknowledged and annotated, 2 have been denied, 5  
12 have received no response, and 1 is pending.

13  
14  
15  
16  
17 *Defendants*

18 142. Defendant Joseph R. Biden is the President of the United States,  
19 and he is sued in his official capacity. As President, Defendant Biden is the head  
20 of the federal government, and is responsible for enacting, implementing, and  
21 enforcing the Vaccine Mandates. On his first day in office, President Biden  
22 signed Executive Order 13991 (“E.O. 13991”) and created the Safer Federal  
23 Workforce Task Force (“Task Force”) which, under President Biden’s authority,  
24 promulgates and issues all policy-related guidance to the various heads of the  
25 agencies defined by 5 U.S.C. § 105. On September 9, 2021, President Biden  
26  
27  
28

1 signed Executive Order 14042, and Executive Order 14043, requiring that all  
2 Federal Employees and Contractors receive the COVID-19 vaccine.

3 143. Defendant Safer Federal Workforce Task Force (“Task Force”) was  
4 established on January 20, 2021, by Executive Order 13991. The three co-chairs  
5 who oversee the Task Force are: (1) the Director of the Office of Personnel  
6 Management (“OPM”); (2) the Administrator of the General Services  
7 Administration (“GSA”); and (3) the White House COVID-19 Response  
8 Coordinator. The other named Task Force members are: (1) the Centers for  
9 Disease Control (“CDC”); (2) the Department of Veteran Affairs (“VA”); (3) the  
10 Federal Emergency Management Agency (“FEMA”); (4) the Federal Protective  
11 Service; (“FPS”); (5) the Office of Management and Budget (“OMB”); and (6)  
12 the United States Secret Service (“USSS”).

13  
14 144. Defendant United States Office of Personnel Management (“OPM”)  
15 is an independent federal agency.

16  
17 145. Defendant Kiran Ahuja is Director of Defendant OPM and is co-  
18 chair of Defendant Task Force. Director Ahuja is sued in her official capacity.

19  
20 146. Defendant General Services Administration (“GSA”) is an  
21 independent federal agency.

22  
23 147. Defendant Robin Carnahan is Administrator of Defendant GSA and  
24 co-chair of Defendant Task Force. She is sued in her official capacity.

25  
26 148. Defendant Jeffrey Zients is co-chair of Defendant Task Force and is  
27  
28



1 the Biden Administration's COVID-19 Response Coordinator. He is sued in his  
2 official capacity.

3 149. Defendant Centers for Disease Control and Prevention (the "CDC")  
4 is an independent federal agency.  
5

6 150. Defendant Rochelle P. Walensky is Director of the Centers for  
7 Disease Control and Prevention and is a member of Defendant Task Force. She  
8 is sued in her official capacity.  
9

10 151. Defendant Department of Veterans Affairs (the "VA") is an  
11 independent federal agency.  
12

13 152. Defendant Denis McDonough is the Secretary of the Department of  
14 Veterans Affairs and is a member of Defendant Task Force. He is sued in his  
15 official capacity.  
16

17 153. Defendant Deanne Criswell is Administrator of the Federal  
18 Emergency Management Agency and is a member of Defendant Task Force. She  
19 is sued in her official capacity.  
20

21 154. Defendant L. Eric Patterson is Director of the Federal Protective  
22 Service and is a member of Defendant Task Force. He is sued in his official  
23 capacity.  
24

25 155. Defendant Office of Management and Budget ("OMB") is an office  
26 within the Executive Office of the President of the United States.  
27

28 156. Defendant Shalanda Young is Director of the Office of Management

1 and Budget and is a member of Defendant Task Force. She is sued in her official  
2 capacity.

3 157. Defendant James M. Murray is Director of the United States Secret  
4 Service and is a member of Defendant Task Force. He is sued in his official  
5 capacity.  
6

7 158. Defendant United States of America includes the federal  
8 departments and federal governmental agencies responsible for the issuance and  
9 implementation of the challenged actions.  
10

11 159. Plaintiffs are either employed or contracted as employees with  
12 departments and agencies of the United States of America, including, but not  
13 limited to, the Department of Defense, the Department of Energy, the  
14 Department of Homeland Security, the U.S. Customs and Border Protection, the  
15 Internal Revenue Service, and the Department of Agriculture.  
16

17 160. All of these federal government entity Defendants have acted under  
18 color of authority of federal law, with their authority purportedly derived from  
19 Defendant United States of America.  
20  
21

## 22 JURISDICTION AND VENUE

23 161. This action arises under the Free Exercise Clause of the First  
24 Amendment, the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb to  
25 2000bb-4, (“RFRA”), the Due Process [Equal Protection] Clause, and the Right  
26 to Bodily Integrity and Bodily Autonomy of the Fifth Amendment, the Fourth  
27  
28

1 Amendment, and the Tenth Amendment to the United States Constitution, and  
 2 under the Emergency Use Authorization provisions of the Federal Food Drug  
 3 and Cosmetic Act, 21 U.S.C. § 360bbb-3 (“FDCA”).  
 4

5 162. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§  
 6 1331 1343(a).  
 7

8 163. Venue is properly laid in this district pursuant to 28 U.S.C. §  
 9 1391(b)(2) because a substantial part of the events or omissions giving rise to  
 10 Plaintiffs’ claims occurred in this district.  
 11

## 12 STATEMENT OF FACTS

13 164. This intolerable bind that was foisted upon the federal workforce,  
 14 including Plaintiffs, can be traced back to December 11, 2020, when the U.S.  
 15 Food and Drug Administration (“FDA”) approved three COVID-19 vaccines for  
 16 emergency use in the United States. The first was Pfizer-BioNTech<sup>7</sup> (December  
 17 11, 2020), the second was Moderna (December 18, 2020)<sup>8</sup>, and, finally, Janssen  
 18 Biotech (a Janssen Pharmaceutical Company of Johnson & Johnson), February  
 19 27, 2021)<sup>9</sup>.  
 20  
 21

22 165. To date, all three available COVID-19 vaccines remain in use under  
 23 an Emergency Use Authorization (“EUA”), but none have been given full FDA  
 24

25  
 26 <sup>7</sup> [Comirnaty and Pfizer-BioNTech COVID-19 Vaccine | FDA; https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-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) (updated October 29, 2021)

27 <sup>8</sup> [Moderna COVID-19 Vaccine | FDA; https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/moderna-covid-19-vaccine](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/moderna-covid-19-vaccine) (updated October 20, 2021)

28 <sup>9</sup> [Janssen COVID-19 Vaccine | FDA; https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/janssen-covid-19-vaccine](https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/janssen-covid-19-vaccine) (updated October 20, 2021)

1 approval (licensure). Unless and until available COVID-19 vaccines become  
 2 fully licensed, they are still under EUA issuance, and are, therefore, considered  
 3 investigational.<sup>10</sup>

4  
 5 166. Since, under the mandates, Plaintiffs will be recipients of an EUA  
 6 investigational medical product, it must be “ensure[d] that individuals to whom  
 7 the product is administered are... informed of the **option to accept or refuse**  
 8 **administration of the product.**” (emphasis added) FDCA §  
 9  
 10 564(e)(1)(A)(ii)(III).

11  
 12 167. The Pfizer, Moderna, and J&J investigational medical products are  
 13 also an example of gene therapy. On October 24, 2021, in a speech given by the  
 14 President of Bayer’s Pharmaceutical Division, Stefan Oelrich, he speaks about  
 15 the pandemic, and what the COVID-19 vaccines are, and stated, “...ultimately  
 16 the mRNA vaccines are an example for that cell and gene therapy.”<sup>11</sup>

17  
 18 168. Essentially, the three experimental vaccines involve a new  
 19 technology called “gene therapy<sup>12</sup>” that has not been approved for, or used in,  
 20 healthy humans, and is still experimental,<sup>13</sup> such that when administered to an  
 21 individual, that individual must give their informed consent.  
 22  
 23

24 <sup>10</sup> COVID-19 Vaccine Questions and Answers | NIH: National Institute of Allergy and Infectious Diseases;  
 25 <https://www.niaid.nih.gov/diseases-conditions/covid-19-vaccine-faq>

26 <sup>11</sup> KEY 01 - Opening Ceremony - World Health Summit 2021 - YouTube;  
 27 [https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3\\_rzLcfxHbOBRX4W](https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3_rzLcfxHbOBRX4W) (at  
 28 1:37:41 – 1:38:08).

<sup>12</sup> What is Gene Therapy? | FDA; <https://www.fda.gov/vaccines-blood-biologics/cellular-gene-therapy-products/what-gene-therapy> ; KEY 01 - Opening Ceremony - World Health Summit 2021 - YouTube;  
[https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3\\_rzLcfxHbOBRX4W](https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3_rzLcfxHbOBRX4W) (at  
 1:37:41 – 1:38:08).

<sup>13</sup> [Gene therapy: advances, challenges and perspectives \(nih.gov\);](https://www.nih.gov/gene-therapy-advances-challenges-and-perspectives)

1           169. The informed consent requirement is further solidified by statements  
2 made by the CDC’s Advisory Committee on Immunization Practices. Dr.  
3 Amanda Cohn, the Executive Secretary of the CDC’s Advisory Committee on  
4 Immunization Practices, stated that, “...under an EUA, vaccines are not allowed  
5 to be mandatory. Therefore, early in the vaccination phase individuals will have  
6 to be consented and cannot be mandated to be vaccinated.”<sup>14</sup> Thus, even the  
7 CDC acknowledges that the vaccines authorized under EUA must be consented  
8 to, and that EUA vaccinations cannot be mandated.

11           170. Additionally, under the sister statute, 10 U.S.C. § 1107a (permitting  
12 the President to waive “the option to accept or refuse” requirement in Section  
13 564 for members of the military under limited circumstances of national  
14 security), that was enacted in 2001, along with Section 564 permitting EUA, the  
15 District Court for the District of Columbia held that, “[h]aving found that [the  
16 Anthrax Vaccine Adsorbed] is an investigational drug under 10 U.S.C. § 1107,  
17 the Court is persuaded that requiring a person to submit to an inoculation without  
18 informed consent...is an irreparable harm for which there is no monetary relief.”  
19 *Doe v. Rumsfeld*, 297 F. Supp. 2d 119, 135 (D.D.C. 2003). Congress deliberately  
20 enacted both statutes, and specifically carved out only one exception for when an  
21 individual would not have “the option to accept or refuse administration of the  
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23  
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<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5823056/>

<sup>14</sup> [ACIP Summary Report August 26, 2020 Atlanta, Georgia \(cdc.gov\)](https://www.cdc.gov/vaccines/acip/meetings/downloads/min-archive/min-2020-08-508.pdf);

<https://www.cdc.gov/vaccines/acip/meetings/downloads/min-archive/min-2020-08-508.pdf> at page 56.

1 product.” Congress permitted required use of an EUA product when the  
 2 President of the United States finds that providing an individual in the military  
 3 with the option to accept or refuse the product would not be in the interests of  
 4 national security. Thus, Congress so highly valued the right to individual consent  
 5 that it allowed only a threat to national security to trump that right, and, even  
 6 then, only with regard to military personnel.  
 7

8  
 9 171. Furthermore, both Moderna and Pfizer, in their Clinical trials,  
 10 outline the fact that their study of the investigational vaccine is designed to be  
 11 evaluated for 2 years for Moderna<sup>15</sup> and for 26 months for Pfizer<sup>16</sup>. Since neither  
 12 of these timeframes has passed yet, both Moderna and Pfizer are still in the midst  
 13 their clinical trials for the COVID-19 experimental vaccine.  
 14

15 172. Defendant Biden vacillated on his stance on whether the COVID-19  
 16 experimental vaccines should be mandatory. Not even a month after he was  
 17 elected as President of the United States, on December 4, 2020, he gave a speech  
 18 in Wilmington, Delaware. During then-President-Elect Biden’s speech, he made  
 19 remarks that he was in alignment with not demanding vaccines to be mandatory  
 20 when he said, “[n]o, I don’t think [COVID-19 vaccines] should be mandatory, I  
 21 wouldn’t demand it to be mandatory.”<sup>17</sup>  
 22  
 23  
 24

25  
 26 <sup>15</sup> [Microsoft Word - mRNA-1273-P301 Protocol.docx \(modernatx.com\);  
 https://www.modernatx.com/sites/default/files/mRNA-1273-P301-Protocol.pdf](https://www.modernatx.com/sites/default/files/mRNA-1273-P301-Protocol.pdf) at page 41.

27 <sup>16</sup> [C4591001\\_Clinical\\_Protocol\\_Nov2020\\_Pfizer\\_BioNTech.pdf \(tghn.org\);  
 https://media.tghn.org/medialibrary/2020/11/C4591001\\_Clinical\\_Protocol\\_Nov2020\\_Pfizer\\_BioNTech.pdf](https://media.tghn.org/medialibrary/2020/11/C4591001_Clinical_Protocol_Nov2020_Pfizer_BioNTech.pdf) at  
 28 page 15.

<sup>17</sup> [Fact Check: Did Joe Biden Reject Idea of Mandatory Vaccines in December 2020? \(msn.com\);  
 https://www.msn.com/en-us/news/politics/fact-check-did-joe-biden-reject-idea-of-mandatory-vaccines-](https://www.msn.com/en-us/news/politics/fact-check-did-joe-biden-reject-idea-of-mandatory-vaccines-)

1           173. This view was further confirmed on July 23, 2021, as, at a press  
 2 briefing, White House Press Secretary Jen Psaki admitted that the federal  
 3 government lacked the power to impose vaccine mandates on contractors or  
 4 employees, and, more specifically, that the federal government's role is not to  
 5 impose vaccine mandates. On the role of the government, she stated, "[w]hat our  
 6 role is and what we are going to continue to do is make the vaccine  
 7 available. We're going to continue to work in partnership to fight  
 8 misinformation. And we're going to continue to advocate and work in  
 9 partnership with local officials and — and trusted voices to get the word out."<sup>18</sup>  
 10  
 11  
 12

13           174. However, shortly thereafter, Defendant Biden turned his back on the  
 14 idea of not mandating the experimental vaccines. In turning his back, President  
 15 Biden began with treating those who remain unvaccinated, or who do not  
 16 confirm their vaccination status, differently, with extraneous requirements, such  
 17 as constantly shoving a swab up their nose, and slapping a mask on their face, so  
 18 that the entire federal workforce is made aware that they are unvaccinated or  
 19 refuse to affirm their vaccination status.  
 20  
 21

22           175. For instance, on July 29, 2021, Defendant Biden made remarks on  
 23 several topics generally related to a spike of COVID-19 caused by the Delta  
 24 variant. Regarding Federal employees and contractors, Defendant Biden stated,  
 25  
 26

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27 [indecember-2020/ar-AAOiq5S](https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/23/press-briefing-by-press-secretary-jen-psaki-july-23-2021/)

28 <sup>18</sup> [Press Briefing by Press Secretary Jen Psaki, July 23, 2021 | The White House;](https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/23/press-briefing-by-press-secretary-jen-psaki-july-23-2021/)  
<https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/23/press-briefing-by-press-secretary-jen-psaki-july-23-2021/>

1 "every federal government employee will be asked to attest to their vaccination  
 2 status. **Anyone who does not attest or is not vaccinated will be required to**  
 3 **mask no matter where they work; test one or two times a week** to see if they  
 4 have a — they have acquired COVID; socially distance; and, generally will not  
 5 be allowed to travel for work. Likewise, today, I'm directing my administration  
 6 to take steps to apply similar standards to all federal contractors. **If you want to**  
 7 **do business with the federal government, get your workers vaccinated**"<sup>19</sup>  
 8  
 9 (emphasis added).  
 10

11 176. A fact sheet accompanying the President's remarks stated, "to help  
 12 protect workers and their communities, **every federal government employee**  
 13 **and onsite contractor will be asked to attest to their vaccination status.**  
 14 **Anyone who does not attest to being fully vaccinated will be required to**  
 15 **wear a mask** on the job no matter their geographic location, **physically distance**  
 16 from all other employees and visitors, **comply with a weekly or twice weekly**  
 17 **screening testing requirement**, and be subject to restrictions on official travel. .  
 18 . . These rules should not only apply to federal workers and onsite contractors.  
 19 President Biden is directing his team to take steps to apply similar standards to  
 20  
 21  
 22  
 23  
 24  
 25  
 26

27 <sup>19</sup> [Remarks by President Biden Laying Out the Next Steps in Our Effort to Get More Americans Vaccinated and](https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/29/remarks-by-president-biden-laying-out-the-next-steps-in-our-effort-to-get-more-americans-vaccinated-and-combat-the-spread-of-the-delta-variant/)  
 28 [Combat the Spread of the Delta Variant | The White House; https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/29/remarks-by-president-biden-laying-out-the-next-steps-in-our-effort-to-get-more-americans-vaccinated-and-combat-the-spread-of-the-delta-variant/](https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/29/remarks-by-president-biden-laying-out-the-next-steps-in-our-effort-to-get-more-americans-vaccinated-and-combat-the-spread-of-the-delta-variant/)



1 all federal contractors. The Administration will encourage employers across the  
2 private sector to follow this strong model."<sup>20</sup> (emphasis added).

3 177. To no surprise, less than a month after Defendant Biden threatened  
4 those who want to do business with the federal government to “get your workers  
5 vaccinated,” the FDA, on August 23, 2021, approved COMIRNATY’s (COVID-  
6 19 Vaccine, mRNA)<sup>21</sup> biologics license application for the Comirnaty vaccine<sup>22</sup>.  
7

8 178. However, it is unclear whether the FDA-approved Comirnaty  
9 vaccine is available in the United States, or if it is the Pfizer EUA approved  
10 vaccine with a Comirnaty bow slapped on it because the FDA has stated that,  
11 “[t]he FDA-approved Comirnaty (COVID-19 Vaccine, mRNA) and the two  
12 EUA authorized formulations of Pfizer-BioNTech COVID-19 Vaccine...when  
13 prepared according to their respective instructions for use, can be used  
14 interchangeably without presenting any safety or effectiveness concerns. **The**  
15 **products are legally distinct with certain differences** that do not impact safety  
16 or effectiveness.<sup>23</sup>” (Emphasis added). Additionally, the available two dose  
17 primary series for the Pfizer-BioNTech vaccine is still only authorized under  
18 EUA.<sup>24</sup>  
19  
20  
21  
22  
23

24 <sup>20</sup> [FACT SHEET: President Biden to Announce New Actions to Get More Americans Vaccinated and Slow the Spread of the Delta Variant | The White House](https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/29/fact-sheet-president-biden-to-announce-new-actions-to-get-more-americans-vaccinated-and-slow-the-spread-of-the-delta-variant/); <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/29/fact-sheet-president-biden-to-announce-new-actions-to-get-more-americans-vaccinated-and-slow-the-spread-of-the-delta-variant/>  
25

26 <sup>21</sup> [Pfizer-BioNTech COVID-19 Vaccine EUA LOA reissued December 9 2021 \(fda.gov\)](https://www.fda.gov/media/150386/download);  
<https://www.fda.gov/media/150386/download>

27 <sup>22</sup> [August 23, 2021 Approval Letter - Comirnaty \(fda.gov\)](https://www.fda.gov/media/151710/download); <https://www.fda.gov/media/151710/download>

28 <sup>23</sup> [Q&A for Comirnaty \(COVID-19 Vaccine mRNA\) | FDA](https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna); <https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna>

<sup>24</sup> [Pfizer-BioNTech COVID-19 Vaccine EUA LOA reissued December 9 2021 \(fda.gov\)](https://www.fda.gov/media/150386/download);  
<https://www.fda.gov/media/150386/download>

179. Amid Defendant Biden's threats, and the FDA biologics license approval for Comirnaty (COVID-19 Vaccine, mRNA), on August 15, 2021, Taliban fighters took control of the Afghan presidential palace in Kabul, in advance of the August 31, 2021, full withdrawal of US armed forces from Afghanistan. A widely circulated video shows Afghans desperately clinging to a departing US military plane during takeoff. A less-circulated video shows an Afghan falling from an airborne US military plane.<sup>25</sup>

180. Just when Defendant Biden thought his Presidency was running smoothly, on August 24, 2021, CNBC reported, "President Joe Biden is having a very bad month. His poll numbers have slipped to their lowest point of his presidency, and **much of it has to do with Covid and Afghanistan.**" (Emphasis added).<sup>26</sup> To add insult to injury, on August 26, 2021, a suicide bombing took place at the airport in Kabul, killing 13 members of the U.S. military and 170 Afghan civilians.<sup>27</sup>

181. In the wake of the bad publicity from the Afghanistan withdrawal, and his Covid response, Defendant Biden needed to do severe damage control, and the previous statements made, and viewpoints portrayed, concerning

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<sup>25</sup> <https://www.fda.gov/media/150386/download> page 2, footnote 9;

Q&A for Comirnaty (COVID-19 Vaccine mRNA) | FDA; <https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna>

<sup>26</sup> [Afghans Cling to Departing U.S. Military Plane as Desperation Grows at Kabul Airport | Military.com; https://www.military.com/video/afghans-cling-departing-us-military-plane-desperation-grows-kabul-airport](https://www.military.com/video/afghans-cling-departing-us-military-plane-desperation-grows-kabul-airport)

<sup>27</sup> [Biden's approval ratings plummet, bad news for Democrats in Congress \(cnbc.com\); https://www.cnbc.com/2021/08/24/bidens-approval-ratings-plummet-bad-news-for-democrats-in-congress.html](https://www.cnbc.com/2021/08/24/bidens-approval-ratings-plummet-bad-news-for-democrats-in-congress.html)

[While U.S. Troops Searched Afghans in Kabul, a Bomber Moved In - The New York Times \(nytimes.com\); https://www.nytimes.com/2021/08/27/us/politics/marines-kabul-airport-attack.html](https://www.nytimes.com/2021/08/27/us/politics/marines-kabul-airport-attack.html)

1 COVID-19 mandatory vaccinations, by both President Biden and the White  
2 House Press Secretary, were completely turned on their head.

3 182. On September 9, 2021, a few days before the peak of the Delta  
4 driven wave of COVID-19 cases, President Biden issued two Executive Orders  
5 (“EO”) (14042 and 14043) and announced, “. . . my message to unvaccinated  
6 Americans is this: . . . We’ve been patient, but our patience is wearing thin. . .  
7  
8 .”<sup>28</sup>  
9

10 183. In his impatience, Defendant Biden, at the stroke of his pen,  
11 executed EO 14043 requiring “COVID-19 vaccination for all federal employees,  
12 with exceptions only as required by law.”<sup>29</sup> The Executive Order further requires  
13 the receipt of one of the three vaccines that have been authorized by the FDA for  
14 emergency use since “the FDA has determined that all three vaccines meet its  
15 rigorous standards for safety, effectiveness, and manufacturing quality.”<sup>30</sup>  
16  
17

18 184. Defendant Biden then delivered his death knell when he also  
19 announced EO 14042 requiring Federal contracts and contract-like instruments to  
20 require contractors to comply with all guidance for contractors published by the  
21 Safer Federal Task Force,<sup>31</sup> which effects more than a million federal contractor  
22  
23

24 <sup>28</sup> [Remarks by President Biden on Fighting the COVID-19 Pandemic | The White House;](https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/)  
25 <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/>

26 <sup>29</sup> [Federal Register :: Requiring Coronavirus Disease 2019 Vaccination for Federal Employees;](https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees#p-6)  
27 <https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees#p-6>

28 <sup>30</sup> [Federal Register :: Requiring Coronavirus Disease 2019 Vaccination for Federal Employees;](https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees#p-3)  
<https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees#p-3>

<sup>31</sup> [Federal Register :: Ensuring Adequate COVID Safety Protocols for Federal Contractors;](https://www.federalregister.gov/documents/2021/09/14/2021-19927/ensuring-adequate-covid-safety-protocols-for-federal-contractors)

employees. Jennings, J and Nagel, J. (2021, June 24). *Federal Workforce Statistics Sources: OPM and OMB* (CRS Report No. R43590, Version 17 Updated). <https://crsreports.congress.gov/product/pdf/R/R43590>.

185. In the immediacy in creating the vaccine mandates, neither EO issued has given federal employees, and federal contractor employees, including Plaintiffs herein, the option to accept or refuse administration of the EUA investigational medical product, i.e. the experimental COVID-19 vaccines.

186. In issuing these EO's, the Safer Federal Workforce Task Force was tasked with issuing guidance for agencies "within seven days of the date of this [Executive] order on agency implementation of this requirement for all agencies covered by this order." EO No. 14043 §2, 88 F.R. 175 (Sept. 9, 2021).

187. On September 13, 2021, the Task Force updated, and published, Guidance entitled "COVID-19 Workplace Safety: Agency Model Safety Principles," but had not yet provided actual guidance for the implementation of the vaccine mandate as contained in the EOs, specifically information as to religious exemptions or guidance as to exceptions provided by law.<sup>32</sup>

188. However, it appears that the Task Force realized their failure to give "guidance" regarding religious exemptions and updated their Vaccination guidance under their Frequently Asked Questions on October 29, 2021.<sup>33</sup>

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<https://www.federalregister.gov/documents/2021/09/14/2021-19924/ensuring-adequate-covid-safety-protocols-for-federal-contractors>

<sup>32</sup> [Vaccinations | Safer Federal Workforce; https://www.saferfederalworkforce.gov/faq/vaccinations/](https://www.saferfederalworkforce.gov/faq/vaccinations/)

<sup>33</sup> [Vaccinations | Safer Federal Workforce; https://www.saferfederalworkforce.gov/faq/vaccinations/](https://www.saferfederalworkforce.gov/faq/vaccinations/)

1           189. The guidance that has been given by the Task Force on religious  
2 exceptions also provides a “Template Request for a Religious Exception to the  
3 COVID-19 Vaccination Requirement” (hereinafter “Template”)<sup>34</sup> for the  
4 government-wide policy, wherein the Plaintiffs are compelled, under economic  
5 duress, i.e., the threat of loss of their employment, to write an affirmation of their  
6 sincerely held religious beliefs to their “Inquisitors” at the various Federal  
7 Agencies, so that, upon the subjective satisfaction of the Inquisitors, the  
8 employees may be permitted to work without compromising the tenets of the  
9 employee’s creeds.  
10

11  
12           190. One such factor given in the Template that allows federal agencies  
13 to assess whether a request for an exception is based on a sincerely held religious  
14 belief includes, “whether the employee has acted in a manner inconsistent with  
15 their professed belief.”  
16  
17

18           191. Additionally, the Template lists questions, for Federal employees  
19 and contractors’ employees to answer, concerning their sincerely held religious  
20 beliefs regarding the vaccine mandate. An example of such questions is “describe  
21 the nature of your objection to the COVID-19 vaccination requirement.”  
22

23           192. The Template further requests “any additional information that you  
24 think may be helpful in reviewing your requests. For example: how long have  
25  
26

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27 <sup>34</sup> [Request For A Religious Exception To The Covid-19 Vaccination Requirement - Template](https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM_FINAL%20REVIEW_20211003%2010.29%2011am.pdf)  
28 [\(saferfederalworkforce.gov\);](https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM_FINAL%20REVIEW_20211003%2010.29%2011am.pdf)  
[https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM\\_FINAL%20REVIEW\\_20211003%2010.29%2011am.pdf](https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM_FINAL%20REVIEW_20211003%2010.29%2011am.pdf)

1 you held the religious belief underlying your objection, whether your religious  
 2 objection is to the use of all vaccines, COVID-19 vaccines, a specific type of  
 3 COVID-19 vaccine or some other subset of vaccines.”  
 4

5 193. The Template provided for Federal Agencies to assess a request for  
 6 an exception based on a sincerely held religious belief is a tool being used by the  
 7 federal government, and other entities, to cherry pick, and ultimately deny those  
 8 who have sincerely held religious beliefs in Jesus Christ, which compels them to  
 9 abstain from receiving any of the currently available COVID-19 vaccines.  
 10

11 194. Due to the ongoing litigation surrounding the vaccine requirements  
 12 for Federal Contractors, some implementation of accommodations, such as  
 13 Religious Exemptions, have been put on hold for the moment, leaving those  
 14 religious exemptions which have been requested and not responded to, as logged,  
 15 but in limbo as to the status of their request.  
 16  
 17

18 195. Along with the unconstitutional Spanish Inquisition style religious  
 19 exemption questionnaire into Plaintiffs’ sincerely held religious beliefs, the Task  
 20 Force also establishes “different safety protocols for individuals who are fully  
 21 vaccinated and those who are not fully vaccinated.”<sup>35</sup>  
 22

23 196. The separate protocols and onerous requirements that federal  
 24 employees and federal contractors’ employees who are not “fully vaccinated” are  
 25  
 26

27  
 28 <sup>35</sup> [Agency Model Safety Principles - September 13, 2021 \(saferfederalworkforce.gov\);  
 https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf](https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf) (page 2).

1 subject to are in regard to masking, testing, and segregation that do not apply to  
 2 individuals who report that they are “fully vaccinated.” Specifically, these  
 3 restrictions include:

- 4 a. They must provide proof of a negative COVID-19 test no later  
 5 than the previous 3 days prior to entry to a Federal building;<sup>36</sup>  
 6
- 7 b. They must wear a mask when in a federal building, even if  
 8 community transmission level is low;<sup>37</sup>  
 9
- 10 c. They are subject to agency “testing” programs,<sup>38</sup> even though  
 11 these “tests” contain Ethylene oxide, which is toxic, carcinogenic,  
 12 and mutagenic, even when inhaled<sup>39</sup>;  
 13
- 14 d. They must segregate themselves from other people by  
 15 maintaining at least a six-foot distance from others;<sup>40</sup>  
 16
- 17 e. They must wear a mask outside when conditions are “crowded,”  
 18 or if they will be in “sustained close contact with other people who  
 19 are not fully vaccinated”;<sup>41</sup> and  
 20

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21  
 22 <sup>36</sup> *Id.*

23 <sup>37</sup> *Id.* at page 3.

24 <sup>38</sup> *Id.* at page 4-5.

25 <sup>39</sup> [ethylene-oxide.pdf \(epa.gov\)](https://www.epa.gov/sites/default/files/2016-09/documents/ethylene-oxide.pdf) ; <https://www.epa.gov/sites/default/files/2016-09/documents/ethylene-oxide.pdf>;  
 26 [Union calls for suspension of rapid testing after toxic substance found | Cyprus Mail \(cyprus-mail.com\)](https://cyprus-mail.com/2021/10/26/union-calls-for-suspension-of-rapid-testing-after-toxic-substance-found/);  
 27 <https://cyprus-mail.com/2021/10/26/union-calls-for-suspension-of-rapid-testing-after-toxic-substance-found/>;  
 28 [Investigation into ethylene oxide treatment and residuals on DNA and downstream DNA analysis - PubMed \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/28063580/); <https://pubmed.ncbi.nlm.nih.gov/28063580/>

<sup>40</sup> [Agency Model Safety Principles - September 13, 2021 \(saferfederalworkforce.gov\)](https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf);  
<https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf> (page 4)

<sup>41</sup> [Agency Model Safety Principles - September 13, 2021 \(saferfederalworkforce.gov\)](https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf);  
<https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%209.13.21.pdf> (page 4)

1 f. If exposed to someone else who tests positive for COVID-19, they  
 2 are required to “follow the CDC and State, local, and Tribal  
 3 guidance for quarantine,”<sup>42</sup> which guidance changes constantly.  
 4 These quarantine requirements apply even if they test negative and  
 5 even if they are already immune through recovery from previous  
 6 COVID-19 infection.  
 7

8  
 9 197. It is apparent that those individuals who choose to remain  
 10 unvaccinated are treated vastly different than their vaccinated counterparts. For  
 11 instance, “... in most settings, fully vaccinated people generally do not need to  
 12 wear a mask or physically distance...”<sup>43</sup>. There are several other areas in the  
 13 Guidance that allude to a general sense of leniency and favoritism towards the  
 14 “fully vaccinated,” even though the fully vaccinated transmit the virus as much,  
 15 if not more, than those who remain unvaccinated.<sup>44</sup>  
 16  
 17

18 198. As if requiring the experimental vaccine for Federal Contractors and  
 19 their employees wasn’t enough, now this vaccine mandate has extended its  
 20 tentacles to Federal subcontractors. On September 24, 2021, The Safer Federal  
 21 Task Force issued "COVID-19 Workplace Safety: Guidance for Federal  
 22  
 23  
 24

25 <sup>42</sup> *Id.* at page 6.

26 <sup>43</sup> *Id.* at page 3.

27 <sup>44</sup> [The epidemiological relevance of the COVID-19-vaccinated population is increasing - The Lancet Regional Health – Europe; https://www.thelancet.com/journals/lanep/article/PIIS2666-7762\(21\)00258-1/fulltext?s=08#%20](https://www.thelancet.com/journals/lanep/article/PIIS2666-7762(21)00258-1/fulltext?s=08#%20) ; [The epidemiological relevance of the COVID-19-vaccinated population is increasing - ScienceDirect; https://www.sciencedirect.com/science/article/pii/S2666776221002581?via%3Dihub](https://www.sciencedirect.com/science/article/pii/S2666776221002581?via%3Dihub) ; [Eurosurveillance | Nosocomial outbreak caused by the SARS-CoV-2 Delta variant in a highly vaccinated population, Israel, July 2021; https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2021.26.39.2100822#abstract\\_content](https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2021.26.39.2100822#abstract_content)  
 28



1 Contractors and Subcontractors."<sup>45</sup> The Guidance requires Federal contractors  
 2 and subcontractors with a covered contract to, among other requirements,  
 3 conform to this workplace safety protocol: COVID-19 vaccination of covered  
 4 contractor employees, except in limited circumstances where an employee is  
 5 legally entitled to an accommodation.  
 6

7  
 8 199. However, the tentacles of the vaccine mandate, as stated in EO  
 9 14043, are somehow circumvented to reaching Congress and employees of the  
 10 U.S. Postal Service. EO 14043 requires "COVID-19 vaccination for all Federal  
 11 employees, subject to such exceptions as required by law,"<sup>46</sup> wherein the prior  
 12 accommodations of unvaccinated employees using masks, spacing, and  
 13 screening tests, as announced on July 29, 2021, were eliminated. EO 14043  
 14 defines term "employee" to mean an employee as defined in 5 U.S.C. 2105  
 15 **(including an employee paid from non-appropriated funds as referenced in**  
 16 **5 U.S.C. 2105(c)).** Thus, EO 14043 changed the definition of "employee" to  
 17 include an employee paid from non-appropriated funds of certain exchanges and  
 18 other instrumentalities of the armed forces referenced in 5 U.S.C. 2105.  
 19  
 20 However, EO 14043 failed to change it to include an employee of the U.S. Postal  
 21 Service or of the Postal Regulatory Commission, referenced in 5 U.S.C. 2105. Of  
 22  
 23  
 24  
 25

26  
 27 <sup>45</sup> [Guidance for Federal Contractors and Subcontractors \(saferfederalworkforce.gov\);](https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf)  
[https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc\\_20210922.pdf](https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf)

28 <sup>46</sup> [Federal Register :: Requiring Coronavirus Disease 2019 Vaccination for Federal Employees;](https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees)  
<https://www.federalregister.gov/documents/2021/09/14/2021-19927/requiring-coronavirus-disease-2019-vaccination-for-federal-employees>

1 important relevance with respect to an employee of the U.S. Postal Service, "the  
 2 Postal Service as a government agency [is] subject to both the Privacy Act [5  
 3 U.S.C. 552a] and the [OSHA] [Emergency Temporary Standard] ETS."<sup>47</sup> The  
 4 OSHA ETS does not require vaccination.<sup>48</sup>

6 200. 5 U.S. Code § 2105 defines "employee," for purposes of Title 5  
 7 (Government Organization and Employees), of the US Code. Deemed not an  
 8 employee under the definition is an employee of the United States (U.S.) Postal  
 9 Service or of the Postal Regulatory Commission (§ 2105(e)), and an employee  
 10 paid from non-appropriated funds of certain exchanges and other  
 11 instrumentalities of the armed forces ((§ 2105(c)). "Unlike private employers, as  
 12 a federal entity, the Postal Service is covered by privacy, security, and  
 13 recordkeeping obligations, such as the Privacy Act [5 U.S.C. 552a] and the  
 14 Freedom of Information Act (FOIA) [5 U.S.C. 552]."<sup>49</sup>

18 201. Under 39 U.S.C. § 201, the U.S. Postal Service is "an independent  
 19 establishment of the executive branch of the Government of the United States . .  
 20 ." As another example, "(13) the term 'Federal personnel' means officers and  
 21 employees of the Government of the United States . . ." 5 U.S.C. 552a(a).

23 202. 5 C.F.R § 531.203 defines "employee" to mean an employee as  
 24

26  
 27 <sup>47</sup> [request-for-variance-and-internal-order-010422-v2.pdf \(usps.gov\); https://liteblue.usps.gov/lite-blue/covid19/pdf/request-for-variance-and-internal-order-010422-v2.pdf](https://liteblue.usps.gov/lite-blue/covid19/pdf/request-for-variance-and-internal-order-010422-v2.pdf) (page 4).

<sup>48</sup> [2021-23643.pdf \(federalregister.gov\); https://public-inspection.federalregister.gov/2021-23643.pdf](https://public-inspection.federalregister.gov/2021-23643.pdf)

28 <sup>49</sup> [request-for-variance-and-internal-order-010422-v2.pdf \(usps.gov\); https://liteblue.usps.gov/lite-blue/covid19/pdf/request-for-variance-and-internal-order-010422-v2.pdf](https://liteblue.usps.gov/lite-blue/covid19/pdf/request-for-variance-and-internal-order-010422-v2.pdf) (page 6).

1 defined in 5 U.S.C. 2105, and an "individual employed by the U.S. Postal  
2 Service or the Postal Rate Commission who would be considered an employee  
3 under 5 U.S.C. 2105 but for the exclusion in section 2105(e)."  
4

5 203. Prior to the OSHA Emergency Temporary Standard, Defendant  
6 Biden, in his remarks on September 9, 2021, announced, "that the Department of  
7 Labor is developing an emergency rule to require all employers with 100 or more  
8 employees, that together employ over 80 million workers, to ensure their  
9 workforces are fully vaccinated **or show a negative test at least once a week**"  
10 (emphasis added). Thus, Federal employees and contractors not covered by EOs  
11 14042 and 14043, such as employees of the U.S. Postal Service and Congress,  
12 could remain unvaccinated and retain their employment, as long as they could  
13 show a negative test once a week.  
14  
15  
16

17 204. Interestingly though, those recipients of Federal support (i.e.,  
18 money), media reports assert that beneficiaries of Federal public assistance have  
19 lower vaccination rates.<sup>50</sup>  
20

21 205. Even after these exclusions have been applied to certain employees  
22 of the federal government, less than one month into the vaccine mandate, the  
23 federal government, and Defendants herein, decided to proceed with cascading  
24 discipline of their employees and contractors, and Plaintiffs herein. On October  
25  
26

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27 <sup>50</sup> [Income inequity persists in COVID-19 vaccination rates - Roll Call;](https://www.rollcall.com/2021/10/27/income-inequity-persists-in-covid-19-vaccination-rates/)  
28 <https://www.rollcall.com/2021/10/27/income-inequity-persists-in-covid-19-vaccination-rates/>; [Medicaid beneficiaries less likely to get COVID-19 shots - Roll Call;](https://www.rollcall.com/2021/06/30/medicaid-beneficiaries-less-likely-to-get-covid-19-shots/) <https://www.rollcall.com/2021/06/30/medicaid-beneficiaries-less-likely-to-get-covid-19-shots/>

1 1, 2021, the U.S. Office of Personnel Management issued a memorandum  
 2 entitled: Guidance on Enforcing Coronavirus Disease 2019 Vaccination  
 3 Requirement for Federal Employees – Executive Order 14043. The Guidance  
 4 states that, "Employees who refuse to be vaccinated or provide proof of  
 5 vaccination are subject to disciplinary measures, up to and including removal or  
 6 termination from Federal service. The only exception is for individuals who  
 7 receive a legally required exception pursuant to established agency processes."<sup>51</sup>  
 8  
 9

10 206. On October 2, 2021, the Task Force stated that the deadline for  
 11 federal employees to be fully vaccinated is November 22, 2021(which means  
 12 receiving the last required shot by November 8). Therefore, if Plaintiffs were not  
 13 in compliance by November 9, 2021, then the federal agency was authorized to  
 14 begin the disciplinary process for employees who have refused to comply with  
 15 the investigational vaccination mandate.  
 16  
 17

18 207. Once disciplinary proceedings have begun, continued non-  
 19 compliance can be followed by proposed removal or termination. However, to  
 20 cater to each individual federal agency and contractors' needs and circumstances  
 21 surrounding a particular employee, there may be an allowance for deviation from  
 22 this guidance.  
 23  
 24  
 25  
 26  
 27

28 <sup>51</sup> [Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043 | CHCOC; https://www.chcoc.gov/content/guidance-enforcing-coronavirus-disease-2019-vaccination-requirement-federal-employees-%E2%80%93-Executive-Order-14043](https://www.chcoc.gov/content/guidance-enforcing-coronavirus-disease-2019-vaccination-requirement-federal-employees-%E2%80%93-Executive-Order-14043)

1           208. To date, several Plaintiffs have been disciplined, and/or terminated.  
 2 It is outrageous and unconscionable that any disciplinary measure and/or  
 3 termination can occur or be valid in the face of an unconstitutional and unlawful  
 4 vaccine mandate.  
 5

6           209. Plaintiffs have been informed by their Federal employers,  
 7 Defendants herein, that they must abide and comply with the vaccine mandate,  
 8 which has led to the termination of many unvaccinated employees, who will be  
 9 deprived of their livelihoods, pensions, and benefits for the employees and for  
 10 their families.  
 11  
 12

13           210. On October 28, 2021, it was reported that the "US has averaged  
 14 69,011 new cases a day over the last week -- **down about 60% from a peak in a**  
 15 **Delta-driven wave (127,531) reached in mid-September**, according to Johns  
 16 Hopkins University data. The average is also well below the country's all-time  
 17 peak, which was more than 251,800 daily in mid-January, amid a winter surge  
 18 when the vaccine rollout was new and limited" (emphasis added).<sup>52</sup>  
 19  
 20

21           211. In tracking the number of COVID-19 deaths, the CDC has compiled  
 22 and published data that approximately 51.5% of those who have died from  
 23 COVID-19 were age 75 years and older<sup>53</sup> (when the average life expectancy in  
 24  
 25  
 26

27 <sup>52</sup> [Covid-19 cases are down 60% from Delta peak. Still, be vigilant heading into winter, CDC director says - CNN; https://www.cnn.com/2021/10/28/health/us-coronavirus-thursday/index.html](https://www.cnn.com/2021/10/28/health/us-coronavirus-thursday/index.html)

28 <sup>53</sup> [COVID-19 Provisional Counts - Weekly Updates by Select Demographic and Geographic Characteristics \(cdc.gov\) ; https://www.cdc.gov/nchs/nvss/vsrr/covid\\_weekly/index.htm?fbclid=IwAR3-wrg3tTKK5-9tOHPGAHWFVO3DfslkJ0KsDEPQpWmPbKtp6EsoVV2QsIQ#SexAndAge](https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm?fbclid=IwAR3-wrg3tTKK5-9tOHPGAHWFVO3DfslkJ0KsDEPQpWmPbKtp6EsoVV2QsIQ#SexAndAge)

1 the United states is approximately 77 years old<sup>54</sup>); approximately 94% of said  
 2 COVID-19 deaths were in individuals who had on average 4 comorbidities  
 3 (additional causes or conditions), and for about 6% of the COVID-19 deaths,  
 4 COVID-19 was the only cause mentioned, showing that most COVID-19 deaths  
 5 were not actually caused by COVID-19, but were merely related to COVID-19<sup>55</sup>.  
 6

7 212. Additionally, the Johns Hopkins University and Medicine,  
 8 Coronavirus Resource Center shows that in the United States, the COVID-19  
 9 virus has a low observed case-fatality ratio of a mere 1.2%.<sup>56</sup>  
 10

11 213. Even though there is plenty of data that has been compiled by the  
 12 CDC, and from other third-party studies, the FDA is still determined to further  
 13 put its stamp of approval on this “no jab no job” policy. On January 31, 2022, the  
 14 FDA approved SPIKEVAX’s (COVID-19 Vaccine, mRNA)<sup>57</sup> biologics license  
 15 application for the Spikevax vaccine<sup>58</sup>.  
 16

17 214. However, similar to the Pfizer-BioNtech/Comirnaty vaccine, it is  
 18 unclear whether the FDA-approved Spikevax vaccine is actually available in the  
 19 United States yet, or if it is merely the Moderna EUA approved vaccine with a  
 20  
 21  
 22

23 <sup>54</sup> FastStats - Life Expectancy (cdc.gov) ; <https://www.cdc.gov/nchs/fastats/life-expectancy.htm>

24 <sup>55</sup> [covid19-comorbidity-expanded-12092020-508.pdf \(cdc.gov\);](https://www.cdc.gov/nchs/data/health_policy/covid19-comorbidity-expanded-12092020-508.pdf)  
[https://www.cdc.gov/nchs/data/health\\_policy/covid19-comorbidity-expanded-12092020-508.pdf](https://www.cdc.gov/nchs/data/health_policy/covid19-comorbidity-expanded-12092020-508.pdf) ; COVID-19  
 25 Provisional Counts - Weekly Updates by Select Demographic and Geographic Characteristics (cdc.gov);  
[https://www.cdc.gov/nchs/nvss/vsrr/covid\\_weekly/index.htm?fbclid=IwAR3-wrg3tTKK5-](https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm?fbclid=IwAR3-wrg3tTKK5-9tOHPGAHWFVO3DfslkJ0KsDEPQpWmPbKtp6EsoVV2Qs1Q#Comorbidities)  
 26 [9tOHPGAHWFVO3DfslkJ0KsDEPQpWmPbKtp6EsoVV2Qs1Q#Comorbidities](https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm?fbclid=IwAR3-wrg3tTKK5-9tOHPGAHWFVO3DfslkJ0KsDEPQpWmPbKtp6EsoVV2Qs1Q#Comorbidities)

27 <sup>56</sup> Mortality Analyses - Johns Hopkins Coronavirus Resource Center (jhu.edu);  
<https://coronavirus.jhu.edu/data/mortality> ; Mortality Risk of COVID-19 - Statistics and Research - Our World in  
 Data; <https://ourworldindata.org/mortality-risk-covid>

28 <sup>57</sup> Moderna COVID-19 Vaccine Letter of Authorization (fda.gov); <https://www.fda.gov/media/144636/download>  
 page 2.

<sup>58</sup> January 31, 2022 Approval Letter - SPIKEVAX (fda.gov); <https://www.fda.gov/media/155815/download>

1 Spikevax label slapped on it, since the FDA in its approval letter states that,  
 2 “SPIKEVAX (COVID-19 Vaccine, mRNA) is the same formulation as the  
 3 Moderna COVID-19 Vaccine and can be used interchangeably with the Moderna  
 4 COVID-19 Vaccine...[t]he products are legally distinct with certain  
 5 **differences** that do not impact safety or effectiveness.<sup>59</sup>” (Emphasis added).  
 6

7 215. Even in light of “FDA approval” of the investigational vaccines, the  
 8 fact still remains that both the Pfizer and Moderna COVID-19 vaccines are under  
 9 Emergency Use Authorization, and their use cannot be mandated.  
 10

11 216. The vaccine mandates have proven to be futile, illegal, and fail to  
 12 address, consider, or even acknowledge dozens of critical legal, factual,  
 13 scientific, and economic issues and questions about the reasoning for such  
 14 sweeping vaccine mandates and agency actions.  
 15  
 16

17 217. A lot has occurred within the past two years, and Defendants have  
 18 decided to continue with their unconstitutional edicts, knowing that they will  
 19 never fully eradicate COVID-19, and, instead, would rather displace more than a  
 20 million federal employees and contractors than see the writing on the wall and  
 21 stop this madness.  
 22  
 23

24 218. The EO’s degrade the sovereignty of the States by violating the  
 25 Tenth Amendment, and exceeding the President’s authority under Article II.  
 26  
 27

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28 <sup>59</sup> [Moderna COVID-19 Vaccine Letter of Authorization \(fda.gov\); https://www.fda.gov/media/144636/download](https://www.fda.gov/media/144636/download)  
 page 2, and footnote 9.

1 Worse, the vaccine mandates violate the Fifth Amendment substantive due  
 2 process clause and the right to bodily integrity, the Fifth Amendment due process  
 3 [Equal Protection] Clause, the religious liberty protected by the Free Exercise  
 4 Clause of the First Amendment and the Religious Freedom Restoration Act, 42  
 5 USC §200bbb (“RFRA”), and the Fourth Amendment right against  
 6 unconstitutional seizures enjoyed by all individuals, as well as Plaintiffs.  
 7

8  
 9 219. The federal government, and Defendants herein, are deliberately  
 10 violating these rights by encouraging, endorsing, and participating in the role of  
 11 carrying out the vaccine mandate, and setting unlawful conditions upon  
 12 Constitutionally enumerated rights through coercively withholding benefits from  
 13 those who exercise them.  
 14

15 220. As it stands at this moment in time, all three of Defendant Biden’s  
 16 vaccine mandates (Federal Employee, Federal Contractor, and OSHA ETS) have  
 17 been enjoined by a federal court, or the Supreme Court, where even OSHA has  
 18 since withdrawn their vaccine or test mandate for private businesses with 100 or  
 19 more employees after the U.S. Supreme Court blocked their mandate<sup>60</sup>. And, yet,  
 20 this administration is encouraging those employers to disregard the federal and  
 21 Supreme Court decisions and to continue to enforce the illegal and  
 22 unconstitutional vaccine mandates<sup>61</sup>.  
 23  
 24  
 25  
 26

27 <sup>60</sup> [U.S. Labor Dept withdrawing COVID vaccine rule for large employers \(yahoo.com\);](https://news.yahoo.com/u-labor-dept-withdrawing-covid-165443565.html)  
<https://news.yahoo.com/u-labor-dept-withdrawing-covid-165443565.html>

28 <sup>61</sup> [Statement by President Joe Biden On the U.S. Supreme Court’s Decision on Vaccine Requirements | The White](https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/13/statement-by-president-joe-)  
[House; https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/13/statement-by-president-joe-](https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/13/statement-by-president-joe-)



1           221. Because of these vaccine mandates, the country is suddenly facing  
 2 perhaps hundreds of thousands of these critical employees and contractors being  
 3 placed on leave or terminated, during an already terrible workforce shortage. The  
 4 resulting economic and national security consequences will be disastrous for this  
 5 country at every level.

7           222. Today, Plaintiffs face the prospect of losing their jobs and  
 8 livelihoods (which some have already lost) due to an unprecedented power grab  
 9 by the Federal government. It is hardly a choice to tell a single mother, or a  
 10 single income household, that they must be vaccinated or lose the financial  
 11 resources to feed their family. If left in place, the mandates will result in  
 12 upheaval and catastrophe for Plaintiffs and the other 2.1 million federal  
 13 employees and contractors being forced to turn to public benefit programs for  
 14 unemployment compensation, food assistance, healthcare, and basic needs.

18                                   **FIRST CAUSE OF ACTION**  
 19                                   **(Fifth Amendment—Due Process [Equal Protection])**

20           223. Plaintiffs incorporate by reference all preceding paragraphs as if  
 21 fully set forth hereat.

22           224. The "due process of law" requirement of the Fifth Amendment of  
 23 the US Constitution encompasses "equal protection of the laws." *Bolling v.*  
 24 *Sharpe*, 347 US 497 (1954). The equal protection guarantee requires that  
 25  
 26  
 27  
 28

1 classifications used to impose differing treatment under a law be rationally  
2 related to a legitimate government interest, and it prohibits differing treatment of  
3 similarly situated individuals on the basis of arbitrary and irrational  
4 classifications. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440  
5 (1985).  
6

7         225. The classification of Federal employees to exclude employees of the  
8 United States Postal Service, and other Federal employees, is not based on a  
9 legitimate government interest, and violates equal protection requirements. There  
10 is a greater distinction between the definition-included Federal employees and  
11 the employees of Federal contractors (mandated to receive vaccines), than there  
12 is between the definition-included Federal employees, and the definition-  
13 excluded Federal employees (not required to receive vaccines). This  
14 classification of similarly situated persons into different groups, i.e., definition-  
15 excluded Federal employees, definition-included Federal employees, and  
16 employees of Federal contractors, is arbitrary and irrational, and it violates the  
17 requirements of equal protection.  
18  
19  
20  
21

22         226. Further, the EOs and the subsequent regulations mandate  
23 vaccination, on the threat of termination, of the definition-included Federal  
24 employees and employees of Federal contractors, while accommodating non-  
25 vaccination of definition-excluded Federal employees. Such immensely  
26 disparate treatment (i.e., termination of employment verses continued  
27  
28

1 employment with accommodation) between a group of the definition-included  
2 Federal employees and the employees of Federal contractors, and another,  
3 similarly-situated group of definition-excluded Federal employees, is arbitrary  
4 and irrational, and it violates the requirements of equal protection.  
5

6 227. In addition, with respect to the vaccine mandates, all recipients of  
7 Federal funds are similarly situated. However, beneficiaries of Federal public  
8 assistance, such as Medicaid, are not required to be vaccinated to continue to  
9 receive such benefits. The Federal government has not provided any legitimate  
10 government interest in not requiring the beneficiaries of Federal public assistance  
11 to be vaccinated, which vaccination requirement is imposed on other recipients  
12 of Federal funds such as the definition-included Federal employees and the  
13 employees of Federal contractors, and the military. Instead, the explanations for  
14 the government interest for the vaccine mandates in the EOs would require all  
15 recipients of Federal funds to be vaccinated, particularly due to the lower  
16 vaccination rates of beneficiaries of Federal public assistance. The failure to  
17 include beneficiaries of Federal public assistance in the class of persons required  
18 to be vaccinated as a condition of continuing to receive the benefits derived from  
19 Federal funds, is arbitrary and irrational, and violates the requirements of equal  
20 protection.  
21  
22  
23  
24  
25

26 228. These Plaintiffs are therefore entitled to declaratory relief and  
27 temporary, preliminary, and permanent injunctive relief invalidating or  
28

1 restraining enforcement of the unconstitutional Orders and restrictions imposed  
2 by Defendants.

3 **SECOND CAUSE OF ACTION**  
4 **(Fifth Amendment – Substantive Due Process)**

5 229. Plaintiffs incorporate by reference all preceding paragraphs as if  
6 fully set forth hereat.

7 230. A competent person has a liberty interest under the Due Process  
8 Clause in refusing unwanted medical treatment. *Cruzan v. Dir., Mo. Dep't of*  
9 *Public Health*, 497 U.S. 261 (1990). "[T]he right to refuse unwanted medical  
10 treatment is so rooted in our history, tradition, and practice as to require special  
11 protection . . ." *Washington v. Glucksberg*, 521 U.S. 702, 722 n.17 (1997).

12 231. The substantive due process component of the U.S. Constitution  
13 forbids the government from infringing upon fundamental liberty interests,  
14 regardless of the process provided, unless the infringement survives review under  
15 strict scrutiny. See, e.g. *Memorial Hospital v. Maricopa County*, 415 U.S. 250,  
16 257-258 (1974); *Dunn v. Blumstein*, 405 U.S. 330, 339-341 (1972); *Shapiro v.*  
17 *Thompson*, 394 U.S. 618, 638 (1969), *Maher v. Roe*, 432 U.S. 464, 488 (1977).  
18 The Orders and restrictions at issue in this matter cannot be sustained even under  
19 the less-exacting standard that the action in question must be narrowly tailored to  
20 serve a compelling state interest. *Reno v. Flores*, 507 U.S. 292, 301-302 (1993).  
21 The United States Supreme Court has declared that "even in a pandemic, the  
22 Constitution cannot be put away and forgotten." See, *Roman Catholic Diocese of*  
23 *Brooklyn v. Cuomo*, 592 U.S. \_\_\_\_, 14 S.Ct. 63, 68 (2020)(per curiam).

24 232. The failure to acknowledge the reportedly greater protection of prior  
25 infection-induce immunity over vaccine-induced immunity is not rational.  
26 Instead, it is arbitrary. It is shocking for the Defendants to terminate the  
27 employment of a person, having the greater protection of infection induced  
28 immunity, for not getting a vaccine.

1           233. In *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), Mr. Jacobson  
2 was required by the Massachusetts court to pay a fine of \$5 for not submitting to  
3 compulsory vaccination against the smallpox disease. (The \$5 dollar fine is  
4 about \$140 today.)

5           234. The smallpox disease has been described as "the most dreadful  
6 scourge of the human species."<sup>62</sup> The smallpox disease killed 3 out of every 10  
7 people infected with the disease. Many smallpox survivors were left with  
8 permanent scars over large areas of their body, especially their faces.

9           235. Mr. Jacobson appealed the \$5 fine, insisting that his liberty was  
10 invaded. The U.S. Supreme Court affirmed the sentence of the Massachusetts  
11 court. Mr. Jacobson was not required to give up his right to "bodily integrity."  
12 See, e.g., *Roman Catholic*, supra, Justice Gorsuch, concurring. Instead, he was  
13 ordered to pay a \$5 fine.

14           236. A \$140 fine today is not extreme. However, the loss of one's  
15 livelihood is extreme, arbitrary, and oppressive. The *Jacobson* court warned  
16 against this type of wrong and oppression. "Before closing this opinion, we  
17 deem it appropriate, in order to prevent misapprehension as to our views, to  
18 observe -- perhaps to repeat a thought already sufficiently expressed, namely --  
19 that the police power of a State, whether exercised by the legislature or by a local  
20 body acting under its authority, may be exerted in such circumstances or by  
21 regulations so arbitrary and oppressive in particular cases as to justify the  
22 interference of the courts to prevent wrong and oppression. Extreme cases can be  
23 readily suggested." *Jacobson*, 197 U.S. at 38.

24           237. Several state and federal courts have opined that *Jacobson* is the  
25 presiding authority that allows for vaccinations to be mandatory. However, in  
26 observing the century's worth of cases following *Jacobson*, the federal cases  
27 addressing fundamental rights are looked at through the lens of strict scrutiny,  
28

<sup>62</sup> See, [History of Smallpox | Smallpox | CDC; https://www.cdc.gov/smallpox/history/history.html](https://www.cdc.gov/smallpox/history/history.html)

1 and not the broad, hands-off, deference to state authorities when it comes to  
2 matters of health and safety. *County of Butler v. Wolf*, 486 F. Supp. 3d 883, 897  
3 (W.D. Pa. 2020). Specifically, here, Plaintiffs' fundamental rights to bodily  
4 integrity and right to refuse unwanted medical treatment are being violated,  
5 where even under the plain language of *Jacobson*, a public health measure can  
6 violate the Constitution. *Id.*

7 238. Through the more modern standard of legal precedent and levels of  
8 scrutiny that have evolved since *Jacobson*, court rulings have vastly developed in  
9 the arena of federal constitutional law and the tests used by the courts have  
10 evolved into tiered levels of scrutiny in matters affecting civil liberties and  
11 constitutional claims. *County of Butler v. Wolf*, 486 F. Supp. 3d 883, 897 (W.D.  
12 Pa. 2020). When a government policy implicates a fundamental right, then the  
13 strict scrutiny standard applies. Thus, the proper constitutional standard that must  
14 be applied in this case is strict scrutiny, and the vaccine mandate fails strict  
15 scrutiny, and is arbitrary and irrational, when Defendants fail to acknowledge the  
16 greater protection provided of infection induced immunity.

17 239. Plaintiffs asserting infection-induced immunity will be damaged by  
18 the unconstitutional Orders and restrictions imposed and enforced by  
19 Defendants.

20 240. These Plaintiffs have no adequate remedy at law, and they will  
21 suffer irreparable harm to their protected liberty and property interests, unless the  
22 court enjoins enforcement of the unconstitutional Orders and restrictions  
23 imposed by Defendants.

24 241. These Plaintiffs are entitled to declaratory relief and temporary,  
25 preliminary, and permanent injunctive relief invalidating or restraining  
26 enforcement of the unconstitutional Orders and restrictions imposed by  
27 Defendants.  
28

**THIRD CAUSE OF ACTION**  
**(Violation of Right to bodily Autonomy and Bodily Integrity, under the Fifth Amendment)**

242. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth hereat.

243. The U.S. Supreme Court reminded us early in the pandemic that we cannot put away and forget the Constitution, even in a pandemic. *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. \_\_\_\_, 14 S.Ct. 63, 68 (2020)(per curiam).

244. This reminder is not revolutionary, nor is it novel, as the Supreme Court has held time and again that a person has a constitutionally protected liberty interest in bodily integrity and bodily autonomy, and refusing unwanted medical treatment, under the Fourteenth Amendment. *Rochin v. California*, 342 U.S. 165,169 (1952); *Cruzan by Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 278 (1990); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

245. The fundamental right of a person to bodily integrity, and the right to refuse unwanted medical treatment, are specially protected, and are, objectively, deeply rooted in the Nation's history and tradition. *Washington v. Glucksberg*, 521 U.S. 702, 702–03 (1997).

246. Each and “[e]very violation of a person’s bodily integrity is an invasion of his or her liberty.” *Washington v. Harper*, 494 U.S. 210, 237 (1990) (Stevens, J., concurring in part). “The invasion is particularly intrusive if it creates a substantial risk of permanent injury and premature death. Moreover, any such action is degrading if it overrides a competent person’s choice to reject a specific form of medical treatment.” *Id.* (footnote omitted).

247. The Supreme Court has explained that the right to refuse medical care derives from the “well-established, traditional rights to bodily integrity and freedom from unwanted touching.” *Vacco v. Quill*, 521 U.S. 793, 807 (1997).



1           248. As noted, the Supreme Court has held for the past 75 years that it  
2           “ha[s] [long] assumed, and strongly suggested, that the Due Process Clause [of  
3           the Fifth Amendment or of the Fourteenth Amendment] protects the  
4           [individual’s] traditional right to refuse unwanted life saving medical treatment.”  
5           *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (citing *Cruzan*, 497 U.S. at  
6           278–79).

7           249. It is a violation of such fundamental rights when the law is not  
8           necessary to further a compelling governmental interest and is not narrowly  
9           tailored to achieve that interest. *Mohamed v. Holder*, 266 F. Supp. 3d 868, 877  
10          (E.D. Va. 2017).

11          250. A “forcible injection ... into a nonconsenting person’s body  
12          represents a substantial interference with that person’s liberty.” *Harper*, 494 U.S.  
13          at 229.

14          251. This aligns with the unconstitutional-conditions doctrine, under  
15          which the government may not condition employment “on a basis that infringes  
16          [an employee’s] constitutionally protected interests.” *Perry v. Sindermann*, 408  
17          U.S. 593, 597 (1972); see also *Koontz v. St. Johns River Water Mgmt. Dist.*, 570  
18          U.S. 595, 606 (2013) (“[T]he unconstitutional conditions doctrine forbids  
19          burdening the Constitution’s enumerated rights by coercively withholding  
20          benefits from those who exercise them.”).

21          252. Unconstitutional conditions case law often references the existence  
22          of varying degrees of coercion. According to that body of law, Defendants  
23          cannot impair Plaintiffs’ right to refuse medical care through forms of coercion  
24          and through this explicit mandate. See, e.g., *Koontz*, 570 U.S. 595 (2013)  
25          (“[U]nconstitutional conditions doctrine forbids burdening the Constitution’s  
26          enumerated rights by coercively withholding benefits from those who exercise  
27          them”); *Memorial Hosp. v. Maricopa Cty.*, 415 U.S. 250 (1974) (“[An]  
28          overarching principle, known as the unconstitutional conditions doctrine ...



1 vindicates the Constitution's enumerated rights by preventing the government  
2 from coercing people into giving them up").

3 253. The decision to remain unvaccinated is a fundamental right to  
4 bodily integrity, under the right to refuse unwanted medical treatment, as a  
5 vaccine requires a needle to pierce the skin of a person's body, and,  
6 subsequently, a person's body is then injected with a medical product, which  
7 may or may not protect the person who has been vaccinated, and, in fact, said  
8 medical product may wind up injuring or killing the vaccinated person.

9 254. The requirement of a forced vaccine upon a federal employee and/or  
10 federal contractor employee, to retain employment, and to continue to be  
11 employed in their respective employment, falls under the fundamental right to  
12 bodily integrity and the right to refuse unwanted medical treatment.

13 255. The Plaintiffs must make the gut-wrenching decision, to either be  
14 injected with a drug for which there are no studies extant concerning its long  
15 term effects, or be suspended, and, then, terminated from their federal  
16 service/employment. No meaningful choice has been afforded to these  
17 employees. A mandatory vaccination requirement is an infringement on a federal  
18 employee's and contractors' employees fundamental right to bodily integrity and  
19 the right to refuse medical treatment.

20 256. As a direct result of exercising their constitutional and statutory  
21 rights, Plaintiffs, and other members of the putative class, have been, or will be,  
22 subjected to disciplinary actions, including, but not limited to, loss of their  
23 federal employment and all pensions and benefits attached to said employment,  
24 both for them and for their families.

25 257. Based upon the Federal Defendants' violations and deprivation of  
26 fundamental constitutional rights, rooted in this Nation's history and tradition,  
27 the Plaintiffs are entitled to injunctive relief, as well as reasonable attorney's fees  
28 and costs.

1           258. Through the aforementioned acts, Defendants, acting as employers,  
2 have deprived Plaintiffs of their fundamental constitutional right to bodily  
3 autonomy, bodily integrity, and the right to refuse unwanted medical treatment,  
4 all in violation of the Fifth Amendment to the United States Constitution.

5           259. The Defendants' vaccine mandate violates the constitutional rights  
6 of federal contractors' employees and federal employees' bodily integrity and the  
7 right to refuse medical treatment.

8           260. The Defendants' conduct has injured the Plaintiffs, through threat of  
9 discipline and job loss, as well as actual employment termination, and through  
10 such actions have violated their constitutional rights that have been implicated  
11 through their decision not to comply with these new personnel policies.

12           261. Consequently, Defendants' vaccine mandate violates the Fifth  
13 Amendment to the Constitution and is unlawful.

14           262. As a direct and proximate result of the Defendant's violation of the  
15 Fifth Amendment, Plaintiffs have suffered, are suffering, and will continue to  
16 suffer irreparable harm, including, but not limited to the loss of their fundamental  
17 constitutional rights, entitling them to declaratory and injunctive relief;  
18 additionally, Plaintiffs are entitled to damages for the loss of their constitutional  
19 rights.

20                                   **FOURTH CAUSE OF ACTION**  
21                   **(Violation of Section 564 of the Food Drug and Cosmetic Act, Emergency**  
22                                   **Use Authorization)**

23           263. Plaintiffs incorporate by reference all preceding paragraphs as if  
24 fully set forth hereat.

25           264. The Federal government is not honoring the long-standing  
26 substantive right of the option to refuse or accept an investigational product, that  
27 is not licensed and has only been approved for Emergency Use ("EUA"),  
28 pursuant to Section 564 of the Food Drug and Cosmetic Act ("FDCA"), codified  
at 21 U.S.C. § 360bbb-3.

1           265. This statute explicitly states that the recipient of the EUA  
2           investigational product must be given the option to refuse or accept such  
3           treatment.

4           266. In analyzing the EUA statute, and the imposition of a vaccination  
5           requirement, the Arizona Attorney General found that “the statutory language  
6           does not refer to “any” option, it refers to “the” option to accept or refuse,  
7           indicating that Congress intended to create and preserve “the” option to reject  
8           EUA products...” Ariz. Op. Att’y. Gen. No. I21-007 (Aug. 20, 2021).

9           267. The Arizona Attorney General further notes that “[t]here was no  
10          reason for Congress to include this language if the option to refuse  
11          administration of the product is, in reality, illusory. *See Corley v. U.S.*, 556 U.S.  
12          303, 314 (2009) (‘The Government’s reading is thus at odds with one of the most  
13          basic interpretive canons, that a statute should be construed so that effect is given  
14          to all its provisions, so that no part will be inoperative or superfluous, void or  
15          insignificant.’ (cleaned up)).” Ariz. Op. Att’y. Gen. No. I21-007 (Aug. 20,  
16          2021).

17          268. An illusory option, which is followed by disciplinary action, and  
18          ends in the loss of employment if the treatment is refused, is not preserving the  
19          option to refuse the EUA vaccine.

20          269. Defendant Agencies are using both EO’s to coerce federal  
21          employees and federal contractors’ employees to receive the COVID-19 vaccine.

22          270. None of the three EUA vaccines available in the United States have  
23          been given an approval license by the FDA.

24          271. Section 564 of the FDCA clearly requires that an EUA vaccine may  
25          not be administered to an individual unless the individual is given the  
26          opportunity to refuse or accept the vaccine. This means that the individual must  
27          be given the opportunity to engage in informed consent prior to receiving the  
28          vaccine, as held in *Doe v. Rumsfeld*, where the court “found that [the Anthrax

Vaccine Adsorbed] is an investigational drug under 10 U.S.C. § 1107, the Court is persuaded that requiring a person to submit to an inoculation without informed consent...is an irreparable harm for which there is no monetary relief.” *Doe v. Rumsfeld*, 297 F. Supp. 2d 119, 135 (D.D.C. 2003). In enacting both 10 U.S.C. § 1107 and Section 564 simultaneously, Congress specifically carved out only one exception for when an individual would not have “the option to accept or refuse administration of the product.” The one exception was that permitted required use of an EUA product is when the President of the United States finds that providing an individual in the military with the option to accept or refuse the product would not be in the interests of national security. Thus, Congress so highly valued the right to individual consent that it deliberately allowed only a threat to national security to trump that right, and, even then, only with regard to military personnel.

272. The Federal Defendants’ requirement that each federal employee and federal contractor employee receive an unlicensed vaccine only authorized for emergency use means that both EO’s, and their implementation by the Federal Defendants, completely ignore this statutory requirement.

273. Therefore, this Court should find and declare EO’s 14042 and 14043 unlawful, because they are in violation of Section 564 of the FDCA, and this Court should enjoin the Federal Defendants from implementing these unlawful EO’s.

**FIFTH CAUSE OF ACTION**  
**(Violation of Religious Liberty under the First Amendment Free Exercise Clause and RFRA 42 USC §200bb)**

274. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth hereat.

275. The U.S. Constitution’s First Amendment Free Exercise Clause requires that the right of religious freedom be given the highest regard, and, said right has been further protected by the Religious Freedom Restoration Act

1 (“RFRA”), 42 USC §200bb.

2 276. The Free Exercise Clause provides that “Congress shall make no  
3 law respecting an establishment of religion, **or prohibiting the free exercise**  
4 **thereof.**” (emphasis added). U.S. Const. Amend I. Therefore, the government is  
5 prohibited from abridging Plaintiffs’ rights to free exercise of religion.

6 277. The Religious Freedom Restoration Act (RFRA) provides that  
7 “Government shall not substantially burden a person’s exercise of religion even  
8 if the burden results from a rule of general applicability.” 42 U.S.C. § 2000bb-  
9 1(a). Congress enacted RFRA in response to the Supreme Court’s departure from  
10 the framework laid out in *Sherbert v. Verner*, 374 U.S. 398 (1963), regarding  
11 religious accommodations in the case *Employment Division v. Smith*, 494 U.S.  
12 872 (1990). Congress stated that the enactment of RFRA was completed to  
13 further “the continuing development of religious liberty jurisprudence,” and that,  
14 “[l]egislatively, RFRA expresses Congress’s intent to ‘provide very broad  
15 protection for religious liberty.’” Novak, K. (2020, April 3). *The Religious*  
16 *Freedom Restoration Act: A Primer* (CRS Report No. IF11490).  
17 <https://crsreports.congress.gov/product/pdf/IF/IF11490>.

18 278. Religious freedom and religious liberties have been long held to be  
19 rights heavily protected by the United States Constitution, and Congress doubled  
20 down on that protection when Congress enacted RFRA to “impose[] a  
21 heightened standard of review for government actions... that ‘substantially  
22 burden’ a person’s religious exercise. (Novak, 2020) (CRS Report No. IF11490).

23 279. As an unalienable right, the government cannot substantially burden  
24 religious exercise without a compelling justification that is the least restrictive  
25 means of furthering a compelling governmental interest. 42 USC §§ 200bb(a)(3),  
26 200bb-1(b)(2). In other words, strict scrutiny applies when there is a religious  
27 exemption request to the vaccine mandate that is denied, and the burden is on the  
28

1 government to show that the vaccine mandates are the “least restrictive means  
2 necessary.”

3 280. Defendants have deprived, and will continue to deprive, Plaintiffs’  
4 of their First Amendment rights, and substantially burden Plaintiffs’ free exercise  
5 of religion under RFRA.

6 281. Plaintiffs’ religious freedoms are being trampled. “The ‘exercise of  
7 religion,’ for purposes of the Free Exercise Clause, and RFRA, involves not only  
8 belief and profession, but the performance of, or abstention from, physical acts  
9 that are engaged in for religious reasons. U.S. Constitution. Amend. 1; Religious  
10 Freedom Restoration Act of 1993, § 3(a, b).” *Burwell v. Hobby Lobby Stores,*  
11 *Inc.*, 573 U.S. 682 (2014).

12 282. Diving into the ins and outs and nooks and crannies of an  
13 individual’s sincerely held religious belief goes above and beyond the inquiry  
14 necessary to evaluate a least restrictive means inquiry.

15 283. Specifically, Defendants have instituted a vaccine mandate that  
16 plainly and unconstitutionally targets religious practice through their so-called  
17 exemption procedure that fails the heightened scrutiny test under the Free  
18 Exercise Clause and RFRA.

19 284. Defendants’ endorsement of the vaccine mandate also infringes  
20 upon Plaintiffs’ First Amendment rights and substantially burdens Plaintiffs’ free  
21 exercise of religion under RFRA, in that it demands Plaintiffs respond to an  
22 invasive Spanish Inquisition style questionnaire without an objective basis giving  
23 rise to a genuine doubt as to the sincerity of their closely held religious beliefs.

24 285. This questionnaire delves incorrectly and unconstitutionally into the  
25 truth or verity of the belief, rather than the Plaintiffs’ honestly and in good faith  
26 belief, as to their abstention from receiving any of the currently available  
27 COVID-19 vaccines. *United States v. Ballard*, 322 U.S. 78, 82 (1944). “Man’s  
28 relation to his God was made no concern of the state. He was granted the right to

1 worship as he pleased and to answer to no man for the verity of his religious  
 2 views...when the [government] undertake[s] that task, they enter a forbidden  
 3 domain.” *Id.* at 87.

4 286. The federal vaccine mandate, and the government’s use of the Task  
 5 Force guidance on religious exceptions entitled, “Template Request for a  
 6 Religious Exception to the COVID-19 Vaccination Requirement,”<sup>63</sup> is an attempt  
 7 to judge the verity of Plaintiffs’ beliefs, and to undermine the sincerely held  
 8 religious beliefs of Plaintiffs. It is nothing more than a ruse, and it is unsupported  
 9 by any compelling governmental interest justifying the trampling of the religious  
 10 rights of Plaintiffs.

11 287. For instance, in *Navy Seal 1 et. al. v. Biden et. al.*, Federal District  
 12 Court Judge Merryday found that, “...the plaintiffs’ contention is — based on  
 13 current data — quite plausible that each branch’s procedure for requesting a  
 14 religious exemption is a **ruse** that will result inevitably in the undifferentiated  
 15 (and therefore unlawful under RFRA) denial of each service member’s request.”  
 16 (emphasis added) *Navy Seal 1 et. al. v. Biden et. al.*, 8:21-cv-02429-SDM-TGW,  
 17 Order at \*33 (November 22, 2021).<sup>64</sup>

18 288. Judge Merryday further explained that “[p]articularly the data  
 19 produced by the defendants show that more than 16,643 requests for a religious  
 20 exemption pend. The military has granted no exemptions but has denied  
 21 hundreds. This disparity, although susceptible to a benign explanation is, as well,  
 22 susceptible to an explanation actionable and remediable under RFRA.” *Navy*  
 23 *Seal 1 et. al. v. Biden et. al.*, (November 22, 2021) Order at \*33.

26 <sup>63</sup> [Request For A Religious Exception To The Covid-19 Vaccination Requirement - Template](https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM_FINAL%20REVIE%2020211003%2010.29%2011am.pdf)  
 27 [W 20211003%2010.29%2011am.pdf](https://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM_FINAL%20REVIE%2020211003%2010.29%2011am.pdf)

28 <sup>64</sup> [gov.uscourts.flmd.395057.40.0.pdf \(courtlistener.com\);](https://storage.courtlistener.com/recap/gov.uscourts.flmd.395057/gov.uscourts.flmd.395057.40.0.pdf)  
<https://storage.courtlistener.com/recap/gov.uscourts.flmd.395057/gov.uscourts.flmd.395057.40.0.pdf>



1           289. In concluding his order, Judge Merryday ordered that the federal  
2 defendants must file a notice every fourteen days for each branch of the armed  
3 forces to report on the total number of religious exemption requests, denials for  
4 requests, appeals to the denials, appeals that are denied, successful appeals,  
5 religious exemptions finally denied and finally granted, medical exemption  
6 requests that are granted and denied, exemption requests that are granted for any  
7 other reason, and “the number of courts-martial and the number of separation  
8 proceedings pending or concluded against a service member whose request for a  
9 religious exemption was denied after appeal.” *Id* at \*33-34.

10           290. It is clear that Christians are being treated as second class citizens,  
11 and they are not allowed nor welcome to serve in the military, be employed by  
12 the federal government, or be employed by federal contractors.

13           291. The compelling interest articulated in E.O. 14043 is to “halt the  
14 spread of coronavirus disease” – it is not to eradicate the disease. To that end, it  
15 is indisputable that vaccination does not achieve this end, as many individuals  
16 who have been “fully vaccinated” have contracted, and continue to contract,  
17 COVID-19, from vaccinated persons.

18           292. Defendants can offer no evidence as to the basis upon which there is  
19 no alternative to halting the spread of COVID-19.

20           293. The offered mechanism, mass vaccination, has not worked, nor will  
21 it work, in achieving the interest that it purports to satisfy.

22           294. Plaintiffs have offered numerous, less restrictive, means to achieve  
23 the interest of stemming the spread of COVID-19.

24           295. The vaccine mandate also seeks to stem the spread of COVID-19  
25 for the interest of the health and safety of our federal workforce; however, if  
26 enforced, the safety and health of those who work in our federal government (and  
27 the federal government as a whole) would be harmed, not protected, due to the  
28



1 mass terminations and loss of ready federal employees and contractors’  
 2 employees, to maintain a functioning federal government.

3 296. The vaccine mandates target Plaintiffs’ sincerely held religious  
 4 beliefs by prohibiting Plaintiffs from seeking and receiving exemptions and  
 5 accommodations for their sincerely held religious beliefs against the COVID-19  
 6 vaccines, and they are not the least restrictive means of achieving the  
 7 government interest.

8 297. Plaintiffs have sincerely held religious beliefs that Scripture is the  
 9 infallible, inerrant word of the Lord Jesus Christ, and they desire to know, and to  
 10 worship Jesus Christ by having exercised, and continue to exercise, their belief in  
 11 Christ, and obeying His word, i.e., the Holy Scripture. Their sincerely held  
 12 religious belief compels them to abstain from receiving any of the currently  
 13 available COVID-19 vaccines.

14 298. Accordingly, the vaccine mandate violates the Plaintiff’s Free  
 15 Exercise Clause rights and their RFRA rights, and this Court should find and  
 16 declare EO’s 14042 and 14043 unlawful, as they are in violation of the First  
 17 Amendment Free Exercise Clause, and RFRA, and this Court should enjoin the  
 18 Federal Defendants from implementing these unlawful EO’s.

19 **SIXTH CAUSE OF ACTION**  
 20 **(Violation of Liberty and Privacy Rights Under the Fifth Amendment)**

21 299. Plaintiffs incorporate by reference all preceding paragraphs as if  
 22 fully set forth hereat.

23 300. The vaccine mandates require Plaintiffs to disclose their personal  
 24 health information to their employers, and to the government, said disclosures  
 25 being a violation of their privacy rights under the Fifth Amendment.

26 301. The mandates also require Plaintiffs to undergo a medical procedure  
 27 that they do not want, which is a violation of their liberty and privacy rights  
 28 under the Fifth Amendment.

1           302. The medical procedure will permanently alter their body and cannot  
2 be undone.

3           303. The medical procedure carries risk. For instance, pursuant to the  
4 FDA and Pfizer, "...because all subjects were observed for only two to six  
5 months, the long-term safety of the vaccine for any age group is not  
6 known." U.S. Food and Drug Administration, Vaccines and Related Biological  
7 Products Advisory Committee. FDA briefing document: EUA amendment  
8 request for Pfizer-BioNTech COVID-19 vaccine for use in children 5 through 11  
9 years of age. Vaccines and Related Biological Products Advisory Committee  
10 Meeting: October 26, 2021: 20, 24, 26-29.<sup>65</sup> Moreover, pursuant to Moderna,  
11 "...because all subjects were observed for only two months, the long-term safety  
12 of the vaccine for any age group is not known. The FDA has also noted, "[l]ong-  
13 term safety and long-term effectiveness are areas the Sponsor [Moderna]  
14 identified as missing information." U.S. Food and Drug Administration,  
15 Vaccines and Related Biological Products Advisory Committee. FDA briefing  
16 document: Moderna COVID-19 vaccine. Vaccines and Related Biological  
17 Products Advisory Committee Meeting: December 17, 2020: 5, 13, 17, 21, 24,  
18 29, 30, 36-38, 46- 49.<sup>66</sup> Lastly, for the Johnson & Johnson experimental vaccine,  
19 the FDA states that "due to the length of the clinical trial's observation period, 'it  
20 is not possible to assess sustained efficacy over a period longer than 2  
21 months.'" U.S. Food and Drug Administration, Vaccines and Related Biological  
22 Products Advisory Committee. FDA briefing document: Janssen Ad26.COV2.S  
23 vaccine for the prevention of COVID-19. Vaccines and Related Biological  
24

25 <sup>65</sup> [Vaccines and Related Biological Products Advisory Committee October 26, 2021 Meeting Briefing Document-  
FDA; https://www.fda.gov/media/153447/download](https://www.fda.gov/media/153447/download) ;

26 [Pfizer-COVID-19-Vaccine-Risk-Statement-PDF.pdf \(physiciansforinformedconsent.org\);  
https://physiciansforinformedconsent.org/Pfizer-COVID-19-Vaccine-Risk-Statement-PDF.pdf](https://physiciansforinformedconsent.org/Pfizer-COVID-19-Vaccine-Risk-Statement-PDF.pdf)

27 <sup>66</sup> [Vaccines and Related Biological Products Advisory Committee December 17, 2020 Meeting Briefing  
Document - FDA; https://www.fda.gov/media/144434/download](https://www.fda.gov/media/144434/download) ;

28 [Moderna-COVID-19-Vaccine-Risk-Statement.pdf \(physiciansforinformedconsent.org\);  
https://physiciansforinformedconsent.org/wp-content/uploads/2021/05/Moderna-COVID-19-Vaccine-Risk-  
Statement.pdf](https://physiciansforinformedconsent.org/wp-content/uploads/2021/05/Moderna-COVID-19-Vaccine-Risk-Statement.pdf)

1 Products Advisory Committee Meeting: February 26, 2021: 12-15, 17, 19, 25,  
2 27, 29, 31, 33, 35, 37-39, 41, 56-57.<sup>67</sup>

3 304. Plaintiffs have constitutionally protected liberty and privacy rights  
4 to exercise sovereignty over their body, and to decline medical procedures that  
5 they do not want.

6 305. The government's asserted interests must be weighed against the  
7 individual right to decline medical procedures.

8 306. The individual right to decline the medical procedure outweighs the  
9 government interests because:

10 a. It is not known how long or how well the experimental  
11 vaccines work to prevent viral transmission or sickness.<sup>68</sup> Pursuant to the  
12 FDA, "[i]t is not known if Comirnaty protects against asymptomatic  
13 SARS-CoV-2 infection..." and "the scientific community does not yet  
14 know if Comirnaty will reduce...transmission [of the virus]."<sup>69</sup>;

15 b. There are known risks of taking the experimental vaccines<sup>70</sup>,  
16 such as "dramatically increase[ing] inflammation on the endothelium and  
17 T cell infiltration of cardiac muscle and may account for the observations  
18 of increased thrombosis, cardiomyopathy, and other vascular events  
19 following vaccination."<sup>71</sup> Moreover, the Vaccine Adverse Event Reporting

20 <sup>67</sup> [Vaccines and Related Biological Products Advisory Committee February 26, 2021 Meeting Briefing Document- FDA; https://www.fda.gov/media/146217/download](https://www.fda.gov/media/146217/download) ;  
21 [Janssen-Johnson-Johnson-COVID-19-Vaccine-Risk-Statement.pdf \(physiciansforinformedconsent.org\);](https://physiciansforinformedconsent.org/wp-content/uploads/2021/05/Janssen-Johnson-Johnson-COVID-19-Vaccine-Risk-Statement.pdf)  
22 <https://physiciansforinformedconsent.org/wp-content/uploads/2021/05/Janssen-Johnson-Johnson-COVID-19-Vaccine-Risk-Statement.pdf>

23 <sup>68</sup> [Correlation of SARS-CoV-2-breakthrough infections to time-from-vaccine \(nature.com\);](https://www.nature.com/articles/s41467-021-26672-3.pdf)  
24 <https://www.nature.com/articles/s41467-021-26672-3.pdf>; [Protective immunity after recovery from SARS-CoV-2 infection - The Lancet Infectious Diseases; https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(21\)00676-9/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00676-9/fulltext)

25 <sup>69</sup> [Q&A for Comirnaty \(COVID-19 Vaccine mRNA\) | FDA; https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna](https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna)

26 <sup>70</sup> [Infection-enhancing anti-SARS-CoV-2 antibodies recognize both the original Wuhan/D614G strain and Delta variants. A potential risk for mass vaccination? - Journal of Infection; https://www.journalofinfection.com/article/S0163-4453\(21\)00392-3/fulltext](https://www.journalofinfection.com/article/S0163-4453(21)00392-3/fulltext) ; [Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections \(medrxiv.org\); https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1.full.pdf](https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1.full.pdf)

27 <sup>71</sup> [Abstract 10712: Mrna COVID Vaccines Dramatically Increase Endothelial Inflammatory Markers and ACS Risk as Measured by the PULS Cardiac Test: a Warning | Circulation \(ahajournals.org\);](https://www.ahajournals.org/doi/10.1161/ATABHA.121.314444)  
28

System (“VAERS”) has reported approximately 20,622 deaths from the experimental vaccine, 35,997 cases of severe allergic reactions, 8,590 cases of anaphylaxis—a severe, potentially life-threatening allergic reaction that is rapid in onset and causes throat swelling, shortness of breath and/or death, 12,317 cases of Bell’s palsy—a type of facial paralysis, 10,429 cases of heart attacks, 3,365 cases of miscarriages, 20,560 cases of Myocarditis—inflammation of the heart muscle/Pericarditis—inflammation of the outer lining of the heart, 11,292 cases of shingles—viral infection that cause a painful rash, and 34,615 cases of permanent disability<sup>72</sup>;

c. The long-term risks of the experimental vaccines are totally unknown;

d. The targeted virus has a low mortality rate. For example, the United States has an observed case-fatality ratio of 1.6%;<sup>73</sup>

e. There are a wide range of treatments available for people who do become sick with the virus, other than the mandated vaccines;

f. The medical procedure is likely to make an individual sick in the short term, through noted acute allergic reactions of anaphylaxis, myocarditis/pericarditis, and permanent disability<sup>74</sup>;

g. The medical procedure involves a new technology called “gene therapy<sup>75</sup>” that has not been approved for, or used in, healthy

<sup>72</sup> [https://www.ahajournals.org/doi/10.1161/circ.144.suppl\\_1.10712](https://www.ahajournals.org/doi/10.1161/circ.144.suppl_1.10712)

<sup>72</sup> COVID Vaccine Data ([openvaers.com](https://openvaers.com)); <https://openvaers.com/covid-data> (last viewed December 28, 2021). However, the deaths reported on VAERS are only an estimation, and the true number of deaths from the COVID vaccine is likely much higher--[Estimating the number of COVID vaccine deaths in America \(skirsch.com\)](http://www.skirsch.com/covid/Deaths.pdf); <http://www.skirsch.com/covid/Deaths.pdf>

<sup>73</sup> [Mortality Analyses - Johns Hopkins Coronavirus Resource Center \(jhu.edu\)](https://coronavirus.jhu.edu/data/mortality); <https://coronavirus.jhu.edu/data/mortality>; [Mortality Risk of COVID-19 - Statistics and Research - Our World in Data](https://ourworldindata.org/mortality-risk-covid); <https://ourworldindata.org/mortality-risk-covid>

<sup>74</sup> [Acute Allergic Reactions to mRNA COVID-19 Vaccines | Allergy and Clinical Immunology | JAMA | JAMA Network](https://jamanetwork.com/journals/jama/fullarticle/2777417); <https://jamanetwork.com/journals/jama/fullarticle/2777417>; [COVID Vaccine Data \(openvaers.com\)](https://openvaers.com/covid-data); <https://openvaers.com/covid-data> (last viewed December 14, 2021).

<sup>75</sup> [What is Gene Therapy? | FDA](https://www.fda.gov/vaccines-blood-biologics/cellular-gene-therapy-products/what-gene-therapy); <https://www.fda.gov/vaccines-blood-biologics/cellular-gene-therapy-products/what-gene-therapy>; [KEY 01 - Opening Ceremony - World Health Summit 2021 - YouTube](https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3_rzLcfxHbOBRX4W); [https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3\\_rzLcfxHbOBRX4W](https://www.youtube.com/watch?v=OJFKBritLlc&list=PLsrCyC4w5AZ8F0xsD3_rzLcfxHbOBRX4W)(at

1 humans, and is still experimental<sup>76</sup>;

2 h. The vaccine mandates are an executive order, not legislative  
3 action; and

4 i. The vaccine mandates do not account for “natural” immunity  
5 acquired through recovery.

6 307. Thus, the Executive Orders are unconstitutional, and must be  
7 blocked from enforcement.

8 **SEVENTH CAUSE OF ACTION**  
9 **(Violation of Separation of Powers and Federalism, Article 1, Section 8,**  
10 **Article II, and the Tenth Amendment)**

11 308. Plaintiffs incorporate by reference all preceding paragraphs as if  
12 fully set forth hereat.

13 309. It is well-known that “our Constitution establishes a system of dual  
14 sovereignty between the States and the Federal Government.” *Gregory v.*  
15 *Ashcroft*, 501 U.S. 452, 457 (1991). “The Framers concluded that allocation of  
16 powers between the National Government and the States enhances  
17 freedom...allocation of powers in our federal system preserves the integrity,  
18 dignity, and residual sovereignty of the States ... in part, [as] an end in itself, to  
19 ensure that States function as political entities in their own right.” *Bond v. United*  
20 *States*, 564 U.S. 211, 221 (2011).

21 310. Furthermore, individual liberty itself is preserved by divided  
22 government: “[b]y denying any one government complete jurisdiction over all  
23 the concerns of public life, federalism protects the liberty of the individual from  
24 arbitrary power. When government acts in excess of its lawful powers, that  
25 liberty is at stake.” *Id.* at 222.

26 311. Additionally, under the core principles of federalism, the federal

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1:37:41 – 1:38:08).

28 <sup>76</sup> [Gene therapy: advances, challenges and perspectives \(nih.gov\);  
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5823056/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5823056/)

1 government is one of enumerated powers, see *United States v. Lopez*, 514 U.S.  
 2 549, 552 (1995); it lacks the general police power to regulate health, safety, and  
 3 morals—which are the preserve of the States, see *Printz v. United States*, 521  
 4 U.S. 898, 919 (1997) (“Residual state sovereignty was also implicit, of course, in  
 5 the Constitution’s conferral upon Congress of not all governmental powers, but  
 6 only discrete, enumerated ones, Art. I, § 8, which implication was rendered  
 7 express by the Tenth Amendment’s assertion that “[t]he powers not delegated to  
 8 the United States by the Constitution, nor prohibited by it to the States, are  
 9 reserved to the States respectively, or to the people.”).

10 312. The Tenth Amendment explicitly preserves the “residuary and  
 11 inviolable sovereignty,” of the states. *Printz v. United States*, 521 U.S. 898, 918–  
 12 19 (1997) (quoting *The Federalist* No. 39, at 245 (J. Madison)). These Executive  
 13 Orders intend to switch off that division of power, and hand over all control over  
 14 our bodies and our livelihoods to the President, and to the Federal Government.

15 313. The Tenth Amendment reinforced what was already apparent, and  
 16 which was in the minds of the Framers of the Constitution, as a sure-fire  
 17 mechanism that was added to ensure that the federal government did not usurp,  
 18 or trample on, the rights of individuals, as well as those of the States.

19 314. Recently, the U.S. District Court in the Southern District of Texas  
 20 struck down the purported Article II power that the president and federal  
 21 government claim to have to force this vaccine mandate on Plaintiffs, and all  
 22 other federal employees and contractors. The court thwarted that notion, and  
 23 stated that, under Article II of the Constitution, the President does not have the  
 24 “power to impose medical procedures on civilian federal employees...**however**  
 25 **extensive that power is, the federal-worker mandate exceeds it.** (emphasis  
 26 added). *Feds for Med. Freedom v. Biden*, No. 3:21-CV-356, 2022 WL 188329, at  
 27 \*6 (S.D. Tex. Jan. 21, 2022).

28 315. The lack of statutory authority is dispositive. The President lacks



1 inherent constitutional authority to force all federal employees to get vaccinated.  
 2 *BST Holdings, LLC*, 17 F.4th at 618 (“Nor can the Article II executive breathe  
 3 new power into OSHA’s [vaccine mandate] authority—no matter how thin  
 4 patience wears.”).

5 316. President Biden, through his EO’s, has exercised power far beyond  
 6 the authority delegated to the federal government by Constitutional mandate or  
 7 by Congressional action.

8 317. Neither Article II of the U.S. Constitution, nor any act of Congress,  
 9 authorizes the federal agencies of the executive branch to implement these EO’s,  
 10 which traditionally falls under the police power left to the states under the Tenth  
 11 Amendment.

12 318. By interfering with the traditional balance of power between the  
 13 states and the federal government, and by acting pursuant to ultra vires federal  
 14 action, President Biden has violated this “inviolable sovereignty,” and, thus, the  
 15 Tenth Amendment.

16 319. For all these reasons, Defendants’ vaccine mandate on federal  
 17 employees and federal contractors exceeds federal governmental power, and  
 18 commandeers the sovereignty of the individual States, which is an  
 19 unconstitutional exercise of authority by President Biden; and, therefore, must be  
 20 invalidated and struck down by the Court.

21 **EIGHTH CAUSE OF ACTION**  
 22 **(Fourth Amendment Violation, Unreasonable Seizure of the Individual)**

23 320. Plaintiffs incorporate by reference all preceding paragraphs as if  
 24 fully set forth hereat.

25 321. The Supreme Court has recently reaffirmed a long-held stance that  
 26 “the ‘seizure’ of a ‘person’” may “take the form of ‘physical force’ or a ‘show of  
 27 authority’ that ‘in some way restrain[s] the liberty’ of the person.” *Torres v.*  
 28 *Madrid*, 141 S. Ct. 989, 995 (2021) (quoting *Terry v. Ohio*, 392 U.S. 1, 19 n.16

1 (1968)).

2 322. The Supreme Court has also held that “a compelled intrusio[n] into  
3 the body,” *Schmerber v. California*, 384 U.S. 757, 767–768 (1966), “[i]n light of  
4 our society’s concern for the security of one’s person,...is [an]  
5 obvious...physical intrusion” when it “penetrat[es] beneath the skin.” *Skinner v.*  
6 *Railway Labor Executives’ Association*, 489 U.S. 602, 616 (1989). Such physical  
7 intrusions “infringe[] an expectation of privacy that society is prepared to  
8 recognize as reasonable” under the Fourth Amendment, and said physical  
9 intrusions themselves “implicate[] privacy interests” and “concern[]...bodily  
10 integrity.” *Id.* at 616-17.

11 323. Moreover, the Fourth Amendment “protects against such intrusions  
12 if the private party acted as an instrument or agent of the Government.” *Skinner*,  
13 489 U.S. at 614. A private entity can be held as an instrument or agent of the  
14 government when the government adopts more than a passive position toward  
15 the underlying private conduct and, “encourage[s], endorse[s], and participate[s]”  
16 in the seizure, which is sufficient to implicate the Fourth Amendment.” *Id.* at  
17 615-16. This is also true when the government sets unconstitutional conditions to  
18 the enjoyment of a benefit. “[T]he unconstitutional conditions doctrine forbids  
19 burdening the Constitution’s enumerated rights by coercively withholding  
20 benefits from those who exercise them.” *Koontz*, 570 U.S. at 606; see also  
21 *Rumsfeld v. Forum for Acad. & Institutional Rights, Inc.*, 547 U.S. 47, 59 (2006);  
22 *Perry*, 408 U.S. at 597.

23 324. Therefore, the government “may not deny a benefit to a person on a  
24 basis that infringes his constitutionally protected [rights] even if he has no  
25 entitlement to that benefit.” *U.S. v. Am. Lib. Ass’n, Inc.*, 539 U.S. 194, 210  
26 (2003).

27 325. The EO’s constitute an unconstitutional seizure of a person under  
28 the Fourth Amendment, and “it in some way restrains the liberty of the person.”



1 *Torres*, 141 S. Ct. at 995 (quoting *Terry v. Ohio*, 392 U.S. at 19, n. 16.)

2 326. The EO's forcibly and physically intrude into a federal employee's  
3 and federal contractor employee's rights, when the vaccine penetrates the skin  
4 and is injected into the bloodstream, becoming a component of their body.

5 327. This physical intrusion, penetrating beneath the skin and injecting a  
6 substance into the bloodstream of an individual, involves an infringement upon a  
7 person's privacy, liberty, and bodily integrity. In light of our society's claimed  
8 concern for the security of one's person, it is clear that the injection of this  
9 experimental vaccine intrudes upon expectations of privacy that society has long  
10 recognized as reasonable, and is, therefore, an unreasonable seizure under the  
11 Fourth Amendment. See *Skinner*, 489 U.S. at 616-17.

12 328. The Defendants are encouraging, endorsing, and participating in this  
13 seizure, through forcing this mandate upon federal employees and federal  
14 contractors and their employees through its own creation and implementation of  
15 EO 14043.

16 329. Lastly, through the EO's, the government is setting unconstitutional  
17 conditions on the federal employees and federal contractor employees to remain  
18 employed, regardless of whether these employees have a legal right of  
19 employment. See *American Library Ass'n, Inc.*, 539 U.S. at 210; *Perry*, 408 U.S.  
20 at 597.

21 330. As noted, several Plaintiffs have been disciplined, and terminated  
22 due to these unconstitutional EO's that have been forced upon them.

23 331. Consequently, the EO's violate the Fourth Amendment, and should  
24 be enjoined.

### 25 **PRAYER FOR RELIEF**

26 Wherefore, Plaintiffs, on behalf of themselves and all others similarly  
27 situated, respectfully pray for judgment in their favor, and ask this Court to enter  
28 judgment as follows:

1 ON THE FIRST CAUSE OF ACTION

2 332. That the Court issue a declaratory judgment that the Executive  
3 Orders violate the due process [equal protection] component of the Fifth  
4 Amendment to the U.S. Constitution, and they are invalid on their face.

5 333. Enjoin the Defendants from continuing its course of conduct, which  
6 violate the U.S. Constitution, under the Fifth Amendment.

7 ON THE SECOND CAUSE OF ACTION

8 334. That the Court issue a declaratory judgment that the Executive  
9 Orders violate the substantive due process component of the Fifth Amendment to  
10 the U.S. Constitution, and they are invalid on their face.

11 335. Enjoin the Defendants from continuing its course of conduct, which  
12 violate the U.S. Constitution, under the Fifth Amendment.

13 ON THE THIRD CAUSE OF ACTION

14 336. That the Court issue a declaratory judgment that the Executive  
15 Orders violate the bodily autonomy and bodily integrity component of the Fifth  
16 Amendment to the U.S. Constitution, and they are invalid on their face.

17 337. Enjoin the Defendants from continuing its course of conduct, which  
18 violate the U.S. Constitution, under the Fifth Amendment.

19 ON THE FOURTH CAUSE OF ACTION

20 338. That the Court issue a declaratory judgment that the Executive  
21 Orders violate Section 564 of the Food Drug and Cosmetic Act, Emergency Use  
22 Authorization, and are invalid on their face.

23 339. Enjoin the Defendants from continuing its course of conduct, which  
24 violate Section 564 of the Food Drug and Cosmetic Act, Emergency Use  
25 Authorization.

26 340. Require Defendants to immediately comply with the Emergency  
27 Use Authorization Statute so that each individual has the “option to accept or  
28 refuse” administration of the COVID-19 vaccines as there is currently no FDA

1 approved COVID-19 vaccine available to the population, without facing  
2 discipline and/or termination from their employer for refusing to be vaccinated.

3 ON THE FIFTH CAUSE OF ACTION

4 341. That the Court issue a declaratory judgment that the Executive  
5 Orders violate the Free Exercise component of the First Amendment to the U.S.  
6 Constitution, and the Religious Freedom Restoration Act (“RFRA”), and they are  
7 invalid on their face.

8 342. Enjoin the Defendants from continuing its course of conduct, which  
9 violate the U.S. Constitution, under the First Amendment and the RFRA.

10 343. Enjoin Defendants from their refusal to consider, evaluate, or accept  
11 Plaintiffs’ requests for exemption and accommodation for their sincerely held  
12 religious beliefs.

13 344. Require Defendants to immediately grant Plaintiffs’ requests for  
14 religious exemption and accommodation from the Federal COVID-19 Vaccine  
15 Mandate.

16 ON THE SIXTH CAUSE OF ACTION

17 345. That the Court issue a declaratory judgment that the Executive  
18 Orders violate the liberty and privacy rights under the Fifth Amendment to the  
19 U.S. Constitution, and they are invalid on their face.

20 346. Enjoin the Defendants from continuing its course of conduct, which  
21 violate the U.S. Constitution, under the Fifth Amendment.

22 ON THE SEVENTH CAUSE OF ACTION

23 347. That the Court issue a declaratory judgment that the Executive  
24 Orders violate Separation of Powers and Federalism under Article 1, Section 8,  
25 Article II, and the Tenth Amendment of the U.S Constitution, and they are  
26 invalid on their face.

27 348. Enjoin the Defendants from continuing its course of conduct, which  
28 violate the U.S. Constitution, under Article 1, Section 8, Article II, and the Tenth

1 Amendment.

2 ON THE EIGHTH CAUSE OF ACTION

3 349. That the Court issue a declaratory judgment that the Executive  
4 Orders violate the unreasonable seizure of the individuals and their rights under  
5 the Fourth Amendment to the U.S. Constitution, and they are invalid on their  
6 face.

7 350. Enjoin the Defendants from continuing its course of conduct, which  
8 violate the U.S. Constitution, under the Fourth Amendment.

9 ON ALL CAUSES OF ACTION

10 351. Declare the Federal COVID-19 Vaccine Mandates, EO 14042 and  
11 14043, both on its face and as applied by Defendants, is illegal and unlawful in  
12 that it purports to remove federal civil rights and constitutional protections from  
13 federal employees and federal contractors' employees;

14 352. Declare the Executive Orders unlawful;

15 353. Issue a nationwide order preliminarily and permanently enjoining  
16 the Federal Defendants from enforcing Executive Orders 14042 and 14043;

17 354. Issue a nationwide order preliminarily and permanently enjoining  
18 the Federal Defendants from enforcing the Masking and Testing Policies as  
19 outlined in the Task Force's "COVID-19 Workplace Safety: Agency Model  
20 Safety Principles";

21 355. Issue a nationwide order preliminarily and permanently enjoining  
22 the Federal Defendants from enforcing disciplinary measures, up to and  
23 including removal or termination from Federal service;

24 356. Require Defendants to vacate any disciplinary measure taken  
25 against any federal employee or federal contractor employee;

26 357. Require Defendants to immediately reinstate any federal employee  
27 or federal contractor employee that was unlawfully and unconstitutionally  
28 terminated from their position as a result of the employee's noncompliance with

1 the mandates and award backpay for their months of lost employment;

2 358. For judgment in favor of Plaintiffs;

3 359. For an award of attorneys' fees and costs;

4 360. For costs of suit herein; and

5 361. For such other and further relief the Court may deem just and  
6 proper.

7 **JURY DEMAND**

8 Plaintiffs demand trial by jury.

9  
10 Respectfully Submitted,

11 Dated: February 10, 2022

12 s/ Gary G. Kreep

13 Gary G. Kreep  
14 Counsel for Plaintiffs  
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