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<p>ERICH SMITH, FRANK E. GARWOOD, JR., MARIBEL LORENZO, and Dr. DANIEL DONOFRIO</p> <p>Plaintiffs,</p> <p>vs.</p> <p>PRESIDENT JOSEPH R. BIDEN, JR. (in his official capacity and any successor to the Office of the President), MERRICK B. GARLAND, in his official capacity as Attorney General of the United States, KILOLO KIJAKAZI, in her official capacity as Acting Commissioner of the Social Security Administration, and THE UNITED STATES OF AMERICA</p> <p>Defendants.</p>	<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY</p> <p>CIVIL ACTION</p> <p><u>SECOND AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF</u></p>
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SECOND AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Erich Smith, Frank E. Garwood, Jr., Maribel Lorenzo, and Dr. Daniel Donofrio by and through their counsel file this action against Defendant President Joseph R. Biden in his official capacity as President of the United States, Defendant the United States of America, Defendant Merrick B. Garland, in his official capacity as Attorney General of the United States, and Defendant Kilolo Kijakazi in her official capacity as Acting

Commissioner of the Social Security Administration and any successors to the Office of President, Attorney General, or Commissioner of the Social Security Administration who continue the actions complained of within, as follows:

INTRODUCTION

1. This is a civil action for declaratory and injunctive relief arising under the Fifth Amendment to the United States Constitution.
2. It concerns the constitutionality of the "vaccine mandates" enacted pursuant to Executive Order 14043 ("EO 14043") and Executive Order 14042 ("EO 14042").
3. The Executive Orders, as written and as applied, violate the liberty and privacy rights protected by the Fifth Amendment to the U.S. Constitution, including the right to refuse medical procedures and the right to protect private medical information.
4. All individuals subject to EO 14043 are required to receive a final injection by November 8, 2021.
5. All individuals subject to EO 14042 are required to receive a final injection by November 10, 2021.

JURISDICTION AND VENUE

6. This action arises under the Fifth Amendment to the U.S. Constitution.
7. This Court has jurisdiction over all claims pursuant to

the Declaratory Judgment Act as codified at 28 *U.S.C.* Sections 2201 and 2202.

8. Venue is proper under 28 *U.S.C.* Section 1391(e)(1) because Defendants are officers of the United States acting in his official capacity, Plaintiffs are located in this District, and a substantial part of the events giving rise the action occurred in this District.
9. The Court has jurisdiction over Defendants the United States of America, Merrick Garland, and Kilolo Kijakazi pursuant to 5 *U.S.C.* §702.

PARTIES

10. Plaintiffs Erich Smith, Frank E. Garwood, Jr., and Dr. Daniel Donofrio are Federal Employees and subject to Executive Order 14043.
11. Plaintiff Maribel Lorenzo is an employee of Horizon BlueCross BlueShield and is subject to Executive Order 14042.
12. Defendant President Joseph R. Biden is the president of the United States and it was under his purported authority that The Mandates were issued.
13. Defendant Merrick B. Garland MERRICK B. GARLAND is the Attorney General of the United States and is responsible for implementation of EO 14043 with regard Plaintiffs Erich Smith and Frank Garwood because they work for the

Department of Justice.

14. Defendant KILOLO KIJAKAZI, is Acting Commissioner of the Social Security Administration, and is responsible for implementation of EO 14043 with regard to Daniel Donofrio.

FACTUAL BACKGROUND

I. The President Announced the Mandates

1. On September 9, 2021 President Joseph Biden gave a national speech announcing "vaccine" mandates for more than 100 million Americans. Exhibit 1 (transcript of the speech as transcribed by the New York Times).
2. The speech divided Americans into two groups: "the vaccinated" and "the unvaccinated."
3. The President held "the vaccinated" up as having done "the right thing," while he vilified "the unvaccinated" for making a personal choice to not undergo a medical procedure the president wants them to undergo, namely injection with one of the so-called Covid-19 vaccines.
4. In his speech, the President implied and stated outright that "the unvaccinated" are a danger to others and society at large:
 - a. He stated that the unvaccinated "can cause a lot of damage, and they are."
 - b. He blamed the unvaccinated for failures of the healthcare system stating "[t]he unvaccinated

overcrowd our hospitals or overrun the emergency rooms and intensive care units, leaving no room for someone with a heart attack or pancreatitis or cancer."

c. He stated that the unvaccinated have harmed the vaccinated: "your refusal has cost all of us."

d. He stated that the vaccinated need to be protected from the unvaccinated: "We're going to protect vaccinated workers from unvaccinated co-workers."

e. He blamed the unvaccinated for impending economic problems: "We cannot let unvaccinated do this [economic] progress - undo it."

f. He blamed the unvaccinated for the virus still existing and people dying: "[A] distinct minority of Americans, supported by a distinct minority of elected officials, *are keeping us from turning the corner.* These pandemic politics, as I refer to, are making people sick, causing unvaccinated people to die."

g. He labeled the unvaccinated as "those blocking public health."

h. He blamed the unvaccinated group's "failures" for a variety of societal ills, including the pandemic itself:

This is a pandemic of the unvaccinated. And it's caused by the fact that despite America having

unprecedented and successful vaccination program – despite the fact that for almost five months, free vaccines have been available in 80,000 different locations – we still have nearly 80 million Americans who have failed to get the shot.

5. Unsurprisingly, given the range of ills laid at the feet of the unvaccinated, the President told the nation that the group he favors and to which he belongs, the vaccinated, are feeling strong negative emotions toward the unvaccinated. He sympathized with and condoned those negative emotions between groups of Americans who have made different medical decisions about their bodies.
6. He condoned anger of the vaccinated against the unvaccinated stating “[t]he vast majority of you who have gotten vaccinated, I understand your anger at those who haven’t gotten vaccinated.”
7. He condoned feelings frustration from the vaccinated toward the unvaccinated: “Many of us are frustrated with the nearly 80 million Americans who are still not vaccinated...”
8. He warned that he and others in the vaccinated group are losing patience with the unvaccinated: “We’ve been patient, but our patience is wearing thin.”
9. In the same speech where he vowed to “protect vaccinated

workers from unvaccinated co-workers” he repeatedly stated that if people had received the so-called vaccines, they are already protected, raising questions as to why the vaccinated need to be protected from the unvaccinated. Specifically, he stated:

a. “I want to emphasize that the vaccines provide very strong protection from Covid-19. I know there’s a lot of confusion and misinformation, but the world’s leading scientists confirm that if you’re fully vaccinated, your risk of severe illness from Covid-19 is very low.”

b. “[A]s the science makes clear, if you’re fully vaccinated, you’re highly protected from severe illness even if you get Covid-19.”

10. The President’s speech culminated with the announcement of a number of “vaccine mandates” intended to coerce people who have chosen not to take any of the so-called vaccines into submitting to his will under the threat of losing their livelihood.

11. In announcing the mandates, the President was very clear that his goal is to coerce the largest number of people as possible into submitting to the medical procedure the government wants them to undergo.

12. He described the mandates as intended to “combat those

blocking public health.” (emphasis added)

13. He told those who have not yet submitted that “the time for waiting is over.”

14. He dismissed the individual liberty to decline medical procedures, stating that this “is not about freedom or personal choice.”

15. He told “100 million Americans – two-thirds of all workers” that they will be shut out from a huge portion of the economy and job market if they do not submit to the government’s demand that they undergo the medical procedure: “If you want to work with the federal government and do business with us, get vaccinated.

16. He directed private employers to coerce their employees into submitting to the shot: “If you want to do business with the federal government, vaccinate your work force.”

17. In short, the President blamed a specific group of Americans, the unvaccinated, for a variety of societal ills, stoked anger and frustration toward the unvaccinated, said that unvaccinated Americans are a danger to others, and then told unvaccinated Americans that they must undergo a medical procedure the US Government wants them to undergo or lose their jobs.

II. The Nature of the Mandated Pharmaceuticals

18. The Mandates require people to undergo the medical

- procedure of being injected with one of three pharmaceutical products authorized for "emergency use" by the Food and Drug Administration ("the FDA").
19. The three products are produced by Pfizer Inc. ("Pfizer"), Moderna, and Johnson and Johnson subsidiary Janssen ("J&J").
20. The pharmaceuticals mandated by the President are almost universally called "vaccines," but it is not clear how they came to be categorized as "vaccines" because they do not fall under any relevant statutory definition or traditional dictionary definition of the word "vaccine."
21. The word "vaccine" is not defined in the Vaccination Assistance Act, the first national statute concerning vaccination, or the National Childhood Vaccine Injury Act.
22. In most dictionaries "vaccines" are defined by two factors: 1) their composition and 2) their mechanism of action.
23. The composition part of the definition has expanded as technology has progressed.
24. Most dictionary definitions from 1905 to the present encompass within the composition of "vaccine" substances that contain: the vaccinia virus, whole microorganisms, or structural parts of microorganisms.
25. The pharmaceuticals being mandated by the President are

not composed of the vaccinia virus, microorganisms, or structural parts of microorganisms.

26. They are excluded from these dictionary definitions of the word "vaccine" because their composition is outside the defined parameters.

27. Instead, the mandated pharmaceuticals are composed of genetic material. The Pfizer and Moderna products are composed of synthetic nucleoside-modified mRNA that has swapped out the nucleic acid uracil with "the non-natural RNA nucleobase N1-methylpseudouridine which enhances immune evasion and protein production." Exhibit 2

28. The mRNA in the Pfizer and Moderna pharmaceuticals encode for the spike protein, but the mRNA is not the same as the viral mRNA due to these alterations to the genetic code.

29. The Johnson and Johnson product is composed of DNA, which is also genetic material, but not the same genetic material of the Sars-Cov2 coronavirus.

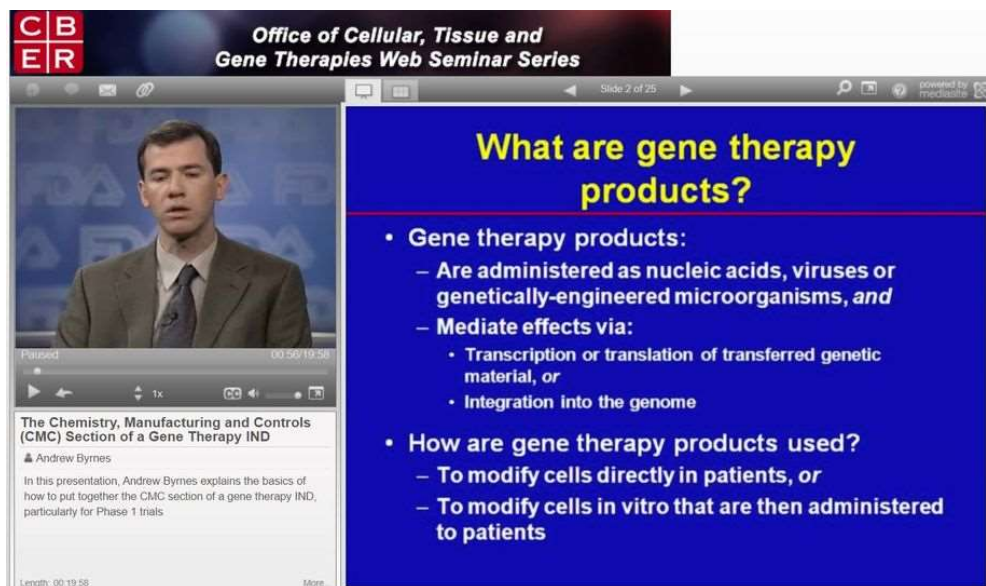
30. All three of the mandated pharmaceuticals mediate effects via the transferred genetic materials through translation (mRNA) or transcription (DNA) into the eventual spike protein. Exhibit 3.

31. The mandated pharmaceuticals do not fall under the dictionary definitions of "vaccine" because they are

excluded by their composition, but they do fall under the FDA Office of Cellular, Tissue, and Gene Therapies' definition of "gene therapy products."

32. The Office of Cellular, Tissue, and Gene Therapies defines gene therapy products by their composition and mechanism of action.

- a. The composition is: "nucleic acids, viruses or genetically-engineered microorganism;
- b. The mechanism of action is to "mediate effects via: transcription or translation of the transferred genetic material..."



33. The Pfizer and Moderna products are administered as synthetic RNA, which is a nucleic acid, and mediate effects by translation of that nucleic acid into a spike protein. Exhibit 3.

34. Moderna's S-1 statement confirms that the FDA regulates mRNA products as gene therapy products. Exhibit 4.

35. The J&J product is administered as DNA, which is a nucleic acid, and mediates effects by transcription of that DNA into mRNA and then translation of the mRNA into the spike protein. Exhibit 3.

36. The Pfizer, Moderna, and J&J products are gene therapy products (hereinafter "the GTPs").

37. It is not known how long or how well the GTPs work to prevent viral transmission of Sars-Cov2. Information is being learned in real time.

38. The Fact Sheets for Recipients for each of the GTPs states that there are known and unknown side effects that may occur. "Fact Sheet for Recipients and Caregivers" for Pfizer, Moderna, and J&J are attached here to as Exhibits 5, 6, and 7 respectively.

39. Data from the clinical trials shows that most people experience systemic illness following injection of the GTPs. The CDC reports on "Local reactions, Systemic Reactions, Adverse Events, and Serious Adverse Events" for Pfizer, Moderna, and J&J are attached hereto as Exhibits 8, 9, and 10 respectively.

III. The Corporations Manufacturing the GTPS

40. Pfizer, Johnson and Johnson, and their subsidiaries have

significant criminal records.

41. In 2009, Pfizer and its subsidiary Pharmacia & Upjohn Company Inc. agreed to pay \$2.3 billion to settle criminal charges and civil claims that they:

- a. illegally "promoted the sale of Bextra for several uses and dosages that the FDA specifically declined to approve due to safety concerns";
- b. Illegally promoted three other drugs;
- c. submitted false claims to government health care programs in contravention to the False Claims Act; and
- d. Paid kickbacks to health care providers.

Exhibit 11.

42. In 2012 Pfizer settled charges brought by the Securities and Exchange Commission that Pfizer violated the Foreign Corrupt Practices Act by bribing doctors and other health care professionals employed by foreign governments.

Exhibit 12.

43. In 2011 Pfizer paid \$14.5 million to resolve government charges that it violated the False Claims Act by illegally promoting the drug Detrol. Exhibit 13.

44. In 2009 Pfizer paid \$75 million to settle criminal and civil charges with the Nigerian government that it experimented on children. Exhibit 14.

45. This is just a sampling of criminal and civil charges lodged against Pfizer by the federal government; there are more.

46. Johnson and Johnson and its subsidiaries also have significant criminal records and prominent drug and medical product safety failures.

47. In 2013, Johnson and Johnson and its subsidiaries paid more than \$2.2 Billion to settle criminal and civil charges that they promoted drugs for uses not approved as safe by the FDA and paid kickbacks to doctors and pharmacy providers. Exhibit 15.

48. In its press release announcing the settlement, the DOJ stated that J&J and its subsidiaries had "jeopardized the health and safety of patients and damaged the public trust" and referred to them as "companies that corrupt our health care system." Exhibit 15.

49. J&J subsidiary Janssen was charged by the US Government for promoting a drug for off-label and unapproved uses, making false and misleading statements about the safety and efficacy of its drug, and paying kickbacks to doctors. The government stated that Janssen's behavior "threatened the most vulnerable populations of our society, children, the elderly and those with developmental disabilities." *Id.*

50. Forty states sued J&J and its subsidiary Ethicon for “misrepresenting the safety and efficacy” and “failing to sufficiently disclose risks” of vaginal mesh devices, which seriously injured thousands of women. Exhibit 16.
51. J&J paid a \$21.4 million criminal penalty to resolve criminal charges that its subsidiaries violated the Foreign Corrupt Practices Act by bribing foreign government officials and doctors. Exhibit 17.
52. One J&J subsidiary pled guilty to causing contaminated infant and children’s medicine to enter interstate commerce and failing to remedy the contamination when it was made aware of it. Exhibit 18.
53. Another J&J subsidiary was fined for obstructing justice and “corruptly persuading others” to shred evidential documents. Exhibit 19.
54. This is just a sampling of Johnson and Johnson and its subsidiaries’ criminal records.
55. Moderna has no track record at all as it has never brought a product to market before and has never had a product approved by the FDA.
56. The Food and Drug Administration, the federal agency charged with overseeing the safety and efficacy of the GTPs has a history of failing to prevent the public from dangerous pharmaceuticals.

IV. The Employee Mandate

57. On September 9, 2021 President Biden signed Executive Order 14043, which stated that "to promote the health and safety of the Federal workforce and the efficiency of the civil service, it is necessary to require Covid-19 vaccination for all Federal employees, subject to such exceptions as required by law" ("EO 14043"). A copy of EO 14043 is attached hereto as Exhibit 20.

58. The Employee Mandate does not state what exceptions are required by law.

59. The Employee Mandate directed the Safer Federal Workforce Task Force ("The Task Force"), a task force established pursuant to Executive Order 13991 on January 20, 2021, to issue guidance "on agency implementation of this requirement for all agencies covered by this order."

60. On September 13, 2021, The Task Force issued an update to its "Covid-19 Workplace Safety: Agency Model Safety Principles" (collectively EO 14043 and the Task Force Guidance concerning federal employees are referred to herein as "The Employee Mandate"). A true and accurate copy of the Task Force Guidance, updated as of September 13, 2021 is attached hereto as Exhibit 21.

61. The Federal Employee Task Force Guidance provides that "Federal Executive Branch employees must be fully

vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation." It requires agencies to "work expeditiously so that their employees are fully vaccinated as quickly as possible and by no later than November 22, 2021." *Id.*

62. The Federal Employee Task Force Guidance establishes "different safety protocols for individuals who are fully vaccinated and those who are not fully vaccinated." *Id.* at pg. 2.

63. Federal employees who are not "fully vaccinated" or who choose not to disclose that private medical information to the government are subject to restrictions and requirements that do not apply to individuals who report that they are "fully vaccinated." These include:

- a. They must provide proof a negative Covid-19 test no later than the previous 3 days prior to entry to a Federal building;
- b. They must wear a mask when in a federal building, even if community transmission level is low;
- c. They are subject to agency "testing" programs;
- d. They must segregate themselves from other people by maintaining at least a 6 foot distance from others;
- e. They must wear a mask outside when conditions are

"crowded" or if they will be in "sustained close contact with other people who are not fully vaccinated";

f. If exposed to someone else who tests positive for covid, they are required to quarantine for 14 days, even if they test negative and even if they are already immune through recovery.

64. Federal employees who are not "fully vaccinated" by this date and who do not qualify or receive an "exception required by law" will be in noncompliance with The Mandate and will, presumably, be terminated from their jobs.

65. Employees who are already immune to covid through recovery are still required to take a GTP.

66. Employees who are remote full-time and do not interact with others are required to take a GTP.

67. Employees subject to the Mandate are required to receive an injection by November 8, 2021.

68. The words "immunity" and "immune" do not appear anywhere in either EO 14043 or the Federal Employee Task Force Guidance.

V. The Contractor Mandate

69. On September 9, 2021 President Biden signed Executive Order 14042 titled "Ensuring Adequate COVID Safety Protocols for Federal Contractors" ("EO 14042"). A true

and accurate copy of EO 14042 is annexed hereto as Exhibit 22.

70. The claimed authority for EO 14042 is "the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and section 301 of title 3, United States Code."

71. The purported purpose of EO 14042 is "to promote economy and efficiency in procurement by contracting with sources that provide adequate Covid-19 safeguards for their workforce."

72. EO 14042 purports that it will "decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at sites where they are performing work for the Federal Government."

73. No data is cited to support that the claimed mechanism or purpose will be achieved by EO 14042.

74. Pursuant to EO 14042 all contracts and contract-like instruments must "include a clause that the contractor and any subcontractor (at any tier)" include a clause in all lower-tier contracts that the contractor or subcontractor "shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task

Force.”

75. The requirement applies to “any workplace locations (as specified by the Task Force Guidance) in which an individual is working on or in connection with a Federal Government contract or contract-like instrument.”

76. EO 14043 required the Task Force to provide definitions of relevant terms and explanations of required protocols.

77. On September 24, 2021, The Task Force issued guidance titled “COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors” (“The Contractor Task Force Guidance”) (EO 14043 and The Contractor Task Force Guidance are collectively referred to herein as “The Contractor Mandate”). A true and accurate copy of the Federal Contractor Task Force Guidance is attached hereto as Exhibit 23.

78. The Contractor Task Force Guidelines state that “Federal contractors and subcontractors with a covered contract will be required to conform” to three “workplace safety protocols”:

1. Covid-19 vaccination of covered contractor employees except in limited circumstances where an employee is legally entitled to an accommodation;
2. Compliance by individuals, including covered contractor employees and visitors, with the Guidance related to masking and physical distancing while in covered contractor workplaces; and

3. Designation by covered contractors of a person or persons to coordinate Covid-19 workplace safety efforts at covered contractor workplaces.

79. The Contractor Mandate is intended to include as many people as possible. The Contractor Task Force Guidance contains a Frequently Asked Questions section that highlights its breadth.

- a. People who are not involved in a federal contract, but work in a "building, site, or facility" or campus for an employer who holds a federal contract are required to take a GTP unless the employer "affirmatively determines" that the non-covered contractor employees will not interact with covered employees in any common area such as lobbies, elevator, and parking garages. (Exhibit 23 Questions 8 and 9);
- b. Employees of subcontractors to a federal government contract must take a GTP even if they themselves are not working on the subcontract if they work in the same building, site, facility, or campus unless the subcontractor affirmatively determines that employees working on a subcontract will not interact with any employee not working on a subcontract (Exhibit 23, Q10);

- c. Covered contractor employees working fully remotely must take a GTP (*Id.* at Q11);
- d. All "subcontractors at all tiers" are required to take a GTP unless the subcontract is just for the provision of products (*Id.* at Q13); and
- e. Employees who work in human resources, billing, legal review, and similar positions who "are not directly engaged in performing the specific work called for by the covered contract" are required to take a GTP.

80. The words "immunity" and "immune" do not appear in either EO 14042 or the Federal Contractor Task Force Guidance.

VI. Plaintiffs

81. Plaintiff Erich Smith works for the Department of Justice, Federal Bureau of Prisons. He is a foreman for a factory within the prison. He has worked full time in person through the entire pandemic. During the height of the pandemic, in May 2020, he volunteered to go to New York City, then an epicenter of the pandemic, as part of the Disturbance Control Team, which handles unusual disturbances that occur in the prisons. He did his duty with the expired n95 mask provided by the government. Through the entire pandemic he worked without complaint. Now the government is demanding that he take a novel pharmaceutical that he does not want to take as a condition

of his job. He has never been required to take any vaccination or undergo any other medical procedure for his job. He feels this is a violation of his right to bodily autonomy and to make his own decisions concerning his health. He is subject to EO 14043.

82. Plaintiff Frank Garwood is also an employee of the U.S. Department of Justice, Federal Bureau of Prisons as a training instructor teaching the inmate population vocational trades. He had made the personal choice not to receive any of the GTPs. He has never been required to take any vaccine or undergo any other medical procedure as part of his employment. He has been working in person with inmates for the past 7 months without issue. He is subject to EO 14043.

83. Plaintiff Maribel Lorenzo has been an underwriter for Horizon BlueCross BlueShield for the last 15 years. She was notified by her employer that they are subject to EO 14042 and that she is therefore required to take one of the GTPs. Ms. Lorenzo does not want to take any of the GTPs for a variety of personal reasons, including the fact that her father died as a result of an adverse reaction to his cancer medication, that she had a miscarriage due to an adverse reaction to a medication prescribed to her when she was pregnant, and that her son suffered through surgery

awake when anesthesia failed to work for him. She is skeptical of pharmaceuticals due to these experiences.

84. Plaintiff Dr. Daniel Donofrio is a licensed chiropractor who has never taken any vaccine in his entire life. For the last 12 years he has worked for the Social Security Administration and is subject to EO 14043. Through hard work he moved rapidly up the ranks and is now an Operations Supervisor, a position he has held for the last 6 years. He has never been required to undergo any medical procedure for his job before. He is now being harassed with automated emails demanding that he disclose his medical status to the government. He worked through the entire pandemic in person without any vaccine. He takes excellent care of his health, riding his bike 80 miles a week and eating healthy foods.

CONSTITUTIONAL CLAIMS

(against all Defendants)

THE MANDATES VIOLATE PLAINTIFFS' 5th AMENDMENT RIGHTS TO LIBERTY AND PRIVACY

85. Plaintiffs repeat and reallege each of the preceding paragraphs.

86. The Mandates require Plaintiffs to disclose personal health information to their employers and the government,

which is a violation of their privacy rights under the 5th Amendment.

87. The Mandates require Plaintiffs to undergo a medical procedure they do not want, which is a violation of their liberty and privacy rights under the 5th Amendment.

88. The medical procedure will permanently alter their body and cannot be undone.

89. The medical procedure carries risk.

90. Plaintiffs have a constitutionally protected liberty and privacy rights to exercise sovereignty over their body and to decline medical procedures they do not want.

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

92. The individual right to decline the medical procedure outweighs the government interests because:

- a. It is not known how long or how well the GTPs work to prevent viral transmission or sickness;
- b. There are known risks of taking the GTPs;
- c. The long term risks of the GTPs are totally unknown;
- d. The targeted disease has a low mortality rate;
- e. There are a wide range of treatments available for people who do become sick with the virus;
- f. The medical procedure is likely to make an individual sick in the short term;

- g. The medical procedure was been invented by and is manufactured by corporations with criminal track records or no track record at all;
- h. The federal agency tasked with oversight of public safety is plagued by scandals and high profile failures directly related to drug safety;
- i. The medical procedure involves a new technology that has never before been approved for or used in healthy humans;
- j. The Mandates are an executive order, not legislative action;
- k. The Mandates do not account for immunity acquired through recovery.

93. The Mandates are unconstitutional.

COUNT 2

THE MANDATES VIOLATE PLAINTIFFS' 5th RIGHT TO EQUAL PROTECTION UNDER THE LAW

94. Plaintiffs repeat and reallege each of the preceding paragraphs.
95. The Mandates create two groups of people and set forth government-mandated different treatment between the groups.
96. The differential treatment is based on Plaintiffs' exercise of a fundamental right.

97. The Mandates violate the equal protection clause of the 5th Amendment.

PRAYER FOR RELIEF

Wherefore, Plaintiffs request the following relief:

98. Declare The Mandates unconstitutional;

99. Enjoin The US Government from enforcing the Mandates;

100. Grant any and all other such relief as this Court deems just and equitable.

Respectfully submitted,

Dated: December 15, 2021

s/ Dana Wefer, Esq.

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COMPLAINT VERIFICATION

I, DANA WEFER, am over the age of eighteen years and counsel for all Plaintiffs in this action. The statements and allegations included in the foregoing Verified Complaint are based upon reports and information known to me, provided to me by Plaintiffs, and/or available as public information. I declare under penalty of perjury that everything represented herein is true to the best of my knowledge, information, and belief.

Dated: December 15, 2021

/s/ Dana Wefer
Dana Wefer

Counsel for Plaintiffs

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

The matter in controversy is being litigated in several other district courts around the country, but counsel is not aware of any cases pending in this jurisdiction. The Plaintiffs in this case are not Plaintiffs in any other litigation against this Defendant.

Dated: December 15, 2021

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