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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**COUNTY OF SAN FRANCISCO**

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**01/04/2022**  
**Clerk of the Court**  
BY: LAURA SIMMONS  
Deputy Clerk

**CGC-22-597428**

UNITED SF FREEDOM ALLIANCE,  
BHANU VIKRAM, CARSON R.  
SCHILLING, CHRISTA L. FESTA,  
CHRISTIANNE T. CROTTY, DENNIS M.  
CALLAHAN, JR., FAIMING CHEUNG,  
and JESSICA KWOK-BO LINDSEY

Plaintiffs,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, a municipal corporation and  
administrative division of the State of  
California, CAROL ISEN, in her individual  
capacity and in her official capacity as the  
Human Resources Director of the City and  
County of San Francisco, SUSAN PHILIP in  
her individual capacity and in her official  
capacity as the Health Officer of the City  
and County of San Francisco, JEANINE R.  
NICHOLSON in her individual capacity and  
in her official capacity as the Chief of  
Department of the San Francisco Fire  
Department, PHILLIP A GINSBURG, in his  
individual capacity and his official capacity  
as the General Manager for the San  
Francisco Recreation and Parks,  
KIMBERLY ACKERMAN, in her  
individual capacity and her official capacity  
as the Chief People Officer for the San  
Francisco Municipal Transportation Agency,  
FABIAN PEREZ, in his individual capacity

Case No.:

**COMPLAINT FOR VIOLATION OF CIVIL  
RIGHTS AND DECLARATORY AND  
INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

1 and his official capacity as an administrator  
2 in the San Francisco Sheriff's Office,  
3 WILLIAM SCOTT, in his individual  
4 capacity and his official capacity as Chief of  
the Police for the San Francisco Police  
Department. and Does 1 through 100,  
inclusive,

5 Defendants.

6  
7 Plaintiffs, UNITED SF FREEDOM ALLIANCE, BHANU VIKRAM, CARSON R.  
8 SCHILLING, CHRISTA L. FESTA, CHRISTIANNE T. CROTTY, DENNIS M. CALLAHAN, JR.,  
9 FAIMING CHEUNG, JESSICA KWOK-BO LINDSEY, by and through their undersigned counsel,  
10 sue Defendants, CITY AND COUNTY OF SAN FRANCISCO ("City"), a municipal corporation and  
11 administrative division of the State of California, CAROL ISEN, in her individual capacity and in her  
12 official capacity as the Human Resources Director of the City, SUSAN PHILIP in her individual  
13 capacity and in her official capacity as the Health Officer of the City and County of San Francisco,  
14 JEANINE R. NICHOLSON in her individual capacity and in her official capacity as the Chief of  
15 Department of the San Francisco Fire Department, PHILLIP A GINSBURG, in his individual capacity  
16 and his official capacity as the General Manager for the San Francisco Recreation and Parks,  
17 KIMBERLY ACKERMAN, in her individual capacity and her official capacity as the Chief People  
18 Officer for the San Francisco Municipal Transportation Agency, FABIAN PEREZ, in his individual  
19 capacity and his official capacity as an administrator in the San Francisco Sheriff's Office, WILLIAM  
20 SCOTT, in his individual capacity and his official capacity as Chief of the Police for the San Francisco  
21 Police Department, and Does 1 through 100, inclusive, and allege as follows:

22 **INTRODUCTION**

23 1. On June 23, 2021, the City issued a "COVID-19 Vaccination Policy" requiring that all  
24 employees be vaccinated against SARS-CoV-2, the virus that causes COVID-19 ("COVID").

25 2. The City's COVID-19 Vaccination Policy was amended on August 6, 2021, on  
26 September 8, 2021, and again thereafter on October 27, 2021, as to only those "employees who are  
27 required to be fully vaccinated against COVID-19 by November 1, 2021." In addition, the City has  
28

1 required certain City employees to receive a COVID-19 booster vaccine by February 1, 2022. The  
2 City's COVID-19 Vaccination Policy as amended, and its booster shot requirement is hereinafter  
3 referred to as the "Mandate." Attached hereto as Exhibit "A" is a true and correct copy of the Mandate.

4 3. The Mandate applies all "employees," which it defines therein to include full-time,  
5 part-time, and as-needed City employees regardless of appointment type.

6 4. The "Purpose Statement" portion of the Mandate provides that: "Vaccination is the  
7 most effective way to prevent transmission and limit COVID-19 hospitalizations and deaths."

8 5. The Director for the Centers for Disease Control ("CDC"), however, has stated that  
9 vaccines do not prevent infection with, or transmission of, the Delta variant, advising: "[W]hat the  
10 [vaccines] can't do anymore is prevent transmission."<sup>1</sup>

11 6. Plaintiffs have been notified that if they fail to comply with the various deadlines  
12 specified in the Mandate for reporting their vaccination status to the City, and becoming fully  
13 vaccinated, they will be forbidden from returning to work, placed on administrative leave, and  
14 terminated.

15 7. The Mandate does not allow for COVID-19 testing as an alternative to vaccination.

16 8. Plaintiffs assert the Mandate cannot be supported when:

17 i. Over 99.8% of all those with COVID survive.

18 ii. Those who survive obtain robust and durable natural immunity.

19 iii. The natural immunity so obtained is superior to COVID vaccine-induced  
20 immunity.

21 iv. The COVID vaccines are ineffective against the Delta strain of COVID, which the  
22 CDC states is the dominant (>99%) strains throughout the United States.

23 v. The CDC acknowledged that the vaccinated and unvaccinated are equally likely to  
24 spread the virus.<sup>2</sup>

25 \_\_\_\_\_  
26  
27 <sup>1</sup> <https://www.cnn.com/2021/08/05/health/us-coronavirus-thursday/index.html>, see also The New England Journal of  
28 Medicine, Resurgence of SARS-CoV-2 Infection in a Highly Vaccinated Health System Workforce (Last visited January 4, 2022)

<sup>2</sup> [https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s\\_cid=mm7031e2\\_w](https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w) (Last visited January 4, 2022)

- vi. Similarly, the CDC acknowledges that the COVID vaccines also do not stop transmission of the omicron variant. (See paragraphs 82-84 for scientific explanation as to why the shots won't stop transmission of any variants.) Per the CDC: **"However, breakthrough infections in people who are fully vaccinated are likely to occur.** With other variants, like Delta, vaccines have remained effective at preventing severe illness, hospitalizations, and death. The recent emergency of Omicron further emphasizes the importance of vaccination and boosters."<sup>3</sup> (Emphasis added)
- vii. To the extent the vaccines are effective at all, it is only to reduce symptoms of those who contract COVID, but not transmission of the virus. They are, therefore, treatments, and not vaccines as that term has always been defined in the law.
- viii. The CDC changed its definitions of "vaccine" in August 2021. The CDC formerly described vaccination as "the act of introduction a vaccine into the body to produce immunity to a specific disease."<sup>4</sup> The definition has since been changed and now reads: "the act of introducing a vaccine into the body to produce protection to a specific disease."<sup>5</sup>
- ix. This is a critical factual and legal distinction. Legal authority to mandate medical treatment only derives under public health regulations. As the CDC holds that Delta is the only strain; that the shots do not stop the transmission of Delta; and that vaccination is mere "protection" against a disease and not "immunity" against the disease; claiming there is a public health mandate is fallacious.
- x. The COVID vaccines cause a significantly higher incidence of injuries, adverse reactions, and deaths than any prior vaccines that have been allowed to remain on

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<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html> (Last visited January 4, 2022)

<sup>4</sup> <https://web.archive.org/web/20210826113846/https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm> (January 4, 2022)

<sup>5</sup> <https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm> (Last visited January 4, 2022)

the market, and, therefore, pose a significant health risk to recipients, who are, by definition, healthy when they receive the COVID vaccines; and

xi. Since, according to the CDC, the COVID vaccines do not prevent the infection or transmission of COVID, while at the same time, also according to the CDC, they result in a massively anomalous (1000% higher) number of adverse events and deaths, there is no justification in the law for mandating them, and the City's mandate must therefore be struck down.

### **PARTIES**

9. Plaintiff UNITED SF FREEDOM ALLIANCE ("USFA") is, and at all times relevant hereto was, a voluntary, unincorporated association for City employees whose purpose is to advocate for medical choice and bodily autonomy on behalf of its members, vis-à-vis the Mandate. USFA members are directly affected by the Mandate, and therefore would have standing in their own right to bring this action. As well, the interests at stake in this case are germane to USFA's purpose, and neither the claims asserted, nor the relief requested requires the individual participation of its members.

10. Plaintiff BHANU VIKRAM is, and at all times relevant hereto was, a citizen of San Francisco County and employed by the City as a Transit Operator for the San Francisco Municipal Transportation Agency ("SFMTA").

11. Plaintiff CARSON R. SCHILLING is, and at all times relevant hereto was, a citizen of Marin County and employed by the City as a Police Officer for the San Francisco Police Department ("SFPD").

12. Plaintiff CHRISTA L. FEST is, and at all times relevant hereto was, a citizen of the County of San Francisco and employed by the City as a Police Officer for the SFPD.

13. Plaintiff CHRISTIANNE T. CROTTY is, and at all times relevant hereto was, a citizen of San Francisco County and employed by the City as a Sheriff Deputy for the San Francisco Sheriff's Office ("SFSO").

14. Plaintiff DENNIS M. CALLAHAN, JR is, and at all times relevant hereto was, a citizen of Contra Costa County and employed by the City as a Track Maintenance Worker Supervisor I for

1 the SFMTA.

2 15. Plaintiff FAIMING CHEUNG is, and at all times relevant hereto was, a citizen of San  
3 Francisco County and employed by the City as an IT Operations Support Administrator III for the San  
4 Francisco Department of Emergency Management (“SFDEM”)

5 16. Plaintiff JESSICA KWOK-BO LINDSEY is, and at all times relevant hereto was, a  
6 citizen of Mendocino County and employed by the City as a Fire Fighter for the San Francisco Fire  
7 Department (“SFFD”).

8 17. Defendant City is, and at all times relevant hereto was, the Plaintiffs’ employer and  
9 issuer of the Mandate via its Department of Human Resources.

10 18. Defendant CAROL ISEN (“Isen”) is, and at all times relevant hereto was, the Human  
11 Resources Director of the City. Isen is ultimately charged with among other things enforcing all  
12 employment policies of the City, including without limitation the Mandate. Isen is being sued in her  
13 official and individual capacities.

14 19. SUSAN PHILIP (“Philip”) is, and at all times relevant hereto was, the Health Officer  
15 of the City, responsible for the Safer-Return-Together Order, as amended, which is referenced in, and  
16 informs, the Mandate and deadlines set forth therein.

17 20. JEANINE R. NICHOLSON (“Nicholson”) is, and at all times relevant hereto was, the  
18 Chief of Department for the SFFD, responsible for General Order 21 A-51 dated June 28, 2021.  
19 Nicholson further required compliance with the Mandate and sought enforcement of the deadlines set  
20 forth therein in specific relation to employees of the SFFD whom she oversees and manages.

21 21. PHILLIP A. GINSBURG (“Ginsburg”) is, and at all times relevant hereto was, the  
22 General Manager for the SFRP, responsible for General Manager Directive 21-0 dated July 15, 2021.  
23 Ginsburg further required compliance with the Mandate and sought enforcement of the deadlines set  
24 forth therein in specific relation to employees of the SFRP whom he oversees and manages.

25 22. KIMBERLY ACKERMAN (“Ackerman”) is, and at all times relevant hereto was, the  
26 Chief People Officer for the SFMTA, responsible for circulating and/or posting a Memorandum to all  
27 staff sometime in late June 2021 which required compliance with the Mandate. Ackerman sought  
28

1 enforcement of the deadlines set forth therein in specific relation to employees of the SFMTA whom  
2 she oversees and manages.

3 23. Sargent FABIAN PEREZ (“Perez”) is, and at all times relevant hereto was, an  
4 administrator in SFSO Administration who disseminated the inter-office correspondence dated July  
5 23, 2021 which required compliance with the Mandate in regard to disclosing vaccine status. Perez  
6 further required compliance with the Mandate and sought enforcement of the deadlines set forth  
7 therein with regard to employees of the SFSO whom he oversees and manages.

8 24. WILLIAM SCOTT (“Scott”) is, and at all times relevant hereto was, the Chief of Police  
9 in SFPD who disseminated Department Notice 21-141 dated September 3, 2021 which required  
10 compliance with the Mandate. Scott sought enforcement of the deadlines set forth therein in specific  
11 relation to employees of the SFPD whom he oversees and manages.

12 25. Defendants Isen, Philip, Nicholson, Ginsburg, Ackerman, Perez, and Scott have  
13 personally undertaken actions under color of law that deprive or imminently threaten to deprive  
14 Plaintiffs of certain rights, privileges, and immunities under the laws and Constitution of the State of  
15 California.

16 26. This lawsuit seeks prospective relief against Defendants in their official capacities.  
17 Defendants are state actors unprotected by sovereign immunity for purposes of this action.

18 27. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as  
19 DOES 1-100, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs will  
20 further amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are  
21 informed and believes that each of these defendants is an agent and/or employee of Defendant City,  
22 and proximately caused Plaintiff’s harm as herein alleged while acting in such capacity.

23 28. On information and belief defendants were the agents, servants, employees,  
24 instrumentalities, representatives, co-venturers, co-conspirators and partners of one another, and in  
25 doing the things hereafter alleged, were acting within the scope of their authority as agents, servants,  
26 employees, instrumentalities, representatives, co-venturers, co-conspirators and partners, and with the  
27 permission and consent of one another, and as such share liability with each other in respect to the  
28

1 matters complained of herein.

2  
3 **GENERAL ALLEGATIONS**

4 29. On January 30, 2020, the World Health Organization (“WHO”) declared a “public  
5 health emergency of international concern over the global outbreak” of COVID. Among the  
6 recommendations called for by the WHO was accelerated development of “vaccines, therapeutics and  
7 diagnostics.”

8 30. On January 31, 2020, President Trump first issued a public health state of emergency  
9 in the United States under the Public Health Service Act due to COVID.

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

14 32. President Trump issued a subsequent declaration of emergency under the Stafford Act  
15 and National Emergencies Act on March 13, 2020, due to COVID.

16 33. A third declaration of emergency was issued by President Trump on March 18, 2020,  
17 under the Defense Production Act due to COVID.

18 34. On February 24, 2021, President Biden extended President Trump’s March 13, 2020  
19 declaration of emergency, stating as a reason for doing so that more “than 500,000 people in this  
20 Nation have perished from the disease.”<sup>6</sup>

21 35. Thus, the United States has been in a constant state of emergency due to COVID (the  
22 “COVID Emergency”) since January 31, 2020, a period of over twenty three months.

23 36. The COVID Emergency has been used to justify lockdowns, banning of worship  
24 services, mandatory masks, vaccine passports, and now mandatory vaccinations such as the  
25 \_\_\_\_\_

26  
27 <sup>6</sup> President Joseph R. Biden, Jr., *Notice on the Continuation of the National Emergency Concerning the Coronavirus*  
28 *Disease 2019 (COVID-19) Pandemic* (February 24, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/>.



1 vaccination requirement the Defendants has placed on each of its employees upon penalty of  
2 termination.

3 37. Never in the history of this nation have all of its citizens been subjected to such broad  
4 invasions of their individual rights and liberties.

5 38. In April 2020, the national Administration announced Operation Warp Speed (“OWS”)  
6 – a public/private partnership to develop and distribute a vaccine for COVID-19 by the end of 2020  
7 or early 2021.

8 39. The process for developing a vaccine normally takes place in several phases, over a  
9 period of years.

10 40. The general stages of the development cycle for a vaccine are:

- 11 i. Exploratory stage;
- 12 ii. Pre-clinical stage (animal testing);
- 13 iii. Clinical development (human trials – see below);
- 14 iv. Regulatory review and approval;
- 15 v. Manufacturing; and

16 Quality control.<sup>7</sup>

17 41. The third stage, clinical development, is itself a three-phase process:

- 18 i. During Phase I, small groups of people receive the trial vaccine.
- 19 ii. In Phase II, the clinical study is expanded and vaccine is given to people  
20 who have characteristics (such as age and physical health) similar to those  
21 for whom the new vaccine is intended.
- 22 iii. In Phase III, the vaccine is given to thousands of people and tested for  
23 efficacy and safety.

24 42. Phase III itself normally occurs over a course of years. That is because it can take years  
25 for the side effects of a new vaccine to manifest themselves.

26 \_\_\_\_\_  
27  
28 <sup>7</sup> <https://www.cdc.gov/vaccines/basics/test-approve.html> (Last visited January 4, 2022)

43. Phase III must be followed by a period of regulatory review and approval. During this stage, data and outcomes are reviewed by peers and by the FDA.

44. Finally, the manufacturer must demonstrate that the vaccine can be manufactured under conditions that assure adequate quality control.

45. The timeline set by OWS telescoped what would normally take years of research into a matter of months.

46. Commercial vaccine manufacturers and other entities proceeded with development of COVID-19 vaccine candidates using different technologies including RNA, DNA, protein, and viral vectored vaccines.

47. Two potential vaccines emerged early on as likely candidates: one developed by Moderna (the “Moderna Vaccine”), the other by Pfizer (the “Pfizer Vaccine”), with both announcing Phase III trial results in November 2020.

48. In early 2021, Janssen Biotech, Inc. submitted Phase III trial results for its adenovirus vector vaccine (the “Janssen Vaccine”).

49. In order for a new vaccine to be approved in the normal course, the manufacturer must submit an application to the FDA pursuant to section 505(b) of the Food, Drug, and Cosmetics Act, encoded at 21 U.S.C. § 355(b) (the “FDCA”). None of the currently-available COVID Vaccines, including the Moderna and Pfizer vaccines that have been acquired and are being administered to San Francisco public employees, has been approved by the FDA.

50. Rather, the COVID Vaccines have been authorized for emergency use under § 564 of the FDCA (encoded at 21 U.S.C. § 360bbb-3), which Congress enacted to vest the Secretary of Health and Human Services with permissive authority to “authorize the introduction into interstate commerce, during the effective period of a declaration [of emergency], of a drug, device, or biological product intended for use in an actual or potential emergency. . . .” 21 U.S.C. § 360bbb-3(a)(1).

51. The statute provides for the authorization of both unapproved products and unapproved uses of an approved product. See 21 U.S.C. § 360bbb-3(a)(2). The Vaccines fall under the former category, as they have not been previously approved for any use, nor have they been approved to date.

52. Section 360bbb-3 mandates the following conditions for authorization of an unapproved product:

. . . [T]he Secretary, to the extent practicable given the applicable circumstances described in subsection (b)(1), *shall*, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

. . . (ii) Appropriate conditions *designed to ensure that individuals to whom the product is administered are informed—*

*. . . (III) of the option to accept or refuse administration of the product.*

. . .

21 U.S.C. § 360bbb-3(e)(1)(A)(ii) (emphasis added).

53. Pfizer and Moderna were granted EUAs for their vaccines under Section 360bbb-3 in December 2020. The FDA granted Janssen an EUA for its vaccine in February 2021.

54. Consistent with its mandate under Section 360bbb-3, the FDA has continued to refer to Vaccines for which EUAs have been granted as “unapproved” or “investigational” products.

55. In other words, as a legal matter and as a matter of FDA policy and guidance, the EUA Vaccines remain experimental.

56. More recently, the FDA has licensed the Pfizer-Biontech vaccine under the brand name, “Comirnaty.” However, on information and belief, the licensed “Comirnaty” vaccine is not yet available in the United States, and all currently-available COVID Vaccine doses were manufactured and distributed under an EUA. In other words, on information and belief, Plaintiffs are being mandated to receive administration of a vaccine that remains experimental.

### COVID-19 Is Not Smallpox

#### A. The Statistics Underlying Defendants’ Justification for the Mandate Are Flawed

##### i. The PCR Test Is Flawed

57. The Covid Emergency is based upon statistics that are flawed for at least the following reasons:

- i. Every statistic regarding COVID is based upon the PCR test, which is a limited test that cannot, on its own, determine whether a test subject is infected with COVID absent an examination by a medical doctor;
- ii. The PCR test is highly sensitive, with the result of the test being dependent upon the cycle threshold (“CT”) at which the test is conducted;
- iii. National Institute of Allergy and Infectious Diseases, Dr. Anthony Fauci, has stated that a test conducted at a CT of over 35 is useless;<sup>8</sup>
- iv. Studies have confirmed Dr. Fauci’s conclusion, showing that tests conducted using CT values over 35 have yielded up to eighty percent (80%) false positives;<sup>9</sup>
- v. Despite this known sensitivity, the PCR tests were mass distributed in the United States without training, were used by technicians who were not made aware of the underlying flaw in the test,<sup>10</sup> and were operated at a CT value in excess of 35

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<sup>8</sup> YouTube.com, *Dr. Tony Fauci - PCR cycles* (October 30, 2020), <https://www.youtube.com/watch?v=A867t1Jblrs>; see also NYTimes.com, *Your Coronavirus Test Is Positive. Maybe It Shouldn’t Be*. August 29, 2020), <https://www.nytimes.com/2020/08/29/health/coronavirus-testing.html>.

<sup>9</sup> Corman-Drosten Review Report, *External peer review of the RTPCR test to detect SARS-CoV-2 reveals 10 major scientific flaws at the molecular and methodological level: consequences for false positive results*, Section 3 (November 27, 2020), <https://cormandrostenreview.com/report/>; see The Lancet *Clarifying the evidence on SARS-CoV-2 antigen rapid tests in public health responses to COVID-19* (February 17, 2021), (“This suggests that 50–75% of the time an individual is PCR positive, they are likely to be post-infectious.”), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00425-6/fulltext#%20](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00425-6/fulltext#%20); DOI: [https://doi.org/10.1016/S0140-6736\(21\)00425-6](https://doi.org/10.1016/S0140-6736(21)00425-6); see also <https://www.aerztezeitung.de/Wirtschaft/80-Prozent-der-positiven-Corona-Schnelltests-falsch-positiv-421053.html> (July 4, 2020), (The fact that the high rate of false positive tests in large-scale testing in the population occurs at a time of low viral incidence is demonstrated in the article from the German *Ärztezeitung*. At the end of the regular cold season (May), about 50% of rapid tests were already reported as false positive, and this rate increased until it reached 80% false positive tests in June.); compare *Comparison of seven commercial SARS-CoV-2 rapid point-of-care antigen tests: a single-centre laboratory evaluation study* (July 2021), (“false-positives do occur with AgPOCTs at a higher rate than with RT-rtPCR.”), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8026170/>. DOI: [10.1016/S2666-5247\(21\)00056-2](https://doi.org/10.1016/S2666-5247(21)00056-2).

<sup>10</sup> NPR *CDC Report: Officials Knew Coronavirus Test Was Flawed But Released It Anyway* (November 6, 2020), <https://www.npr.org/2020/11/06/929078678/cdc-report-officials-knew-coronavirus-test-was-flawed-but-released-it-anyway>.

1 routinely, therefore, delivering results that were, according to Dr. Fauci and a broad  
2 consensus of experts in the area, useless;<sup>11</sup> and

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

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

9 58. Due to the numerous flaws in the fundamental test upon which all statistics underlying  
10 the COVID Emergency are based, and the high level of resulting false positives, many have incorrectly  
11 concluded that asymptomatic people, who in the past would simply have been referred to as “healthy  
12 people,” are somehow contagious and are spreading the disease.

13 59. Policy decisions at the state and federal level rest upon this myth. For example,  
14 mandatory masking of healthy people is based upon this myth. Social distancing is based upon this  
15 myth as well. The policy that perfectly healthy, non-contagious people must be vaccinated to interact  
16 with and participate in society is based in large degree upon this myth. With regard to flawed statistics,  
17 mass PCR testing of the entire population has been based upon this myth. There is no reason to test  
18 perfectly healthy asymptomatic people absent the belief that asymptomatic people can spread COVID.

19 60. However, the assumption that people with no symptoms can spread the disease is false.  
20 As Dr. Fauci stated during a September 9, 2020: “[E]ven if there is some asymptomatic transmission,  
21 in all the history of respiratory borne viruses of any type, asymptomatic transmission has never been  
22 the driver of outbreaks. The driver of outbreaks is always a symptomatic person, even if there is a rare  
23 asymptomatic person that might transmit, an epidemic is not driven by asymptomatic carriers.”

24 61. Due to the incorrect assumption that asymptomatic people could spread the disease,  
25 mass testing has been instituted of the population at large. Due to the numerous flaws in the PCR test  
26

27  
28 <sup>11</sup> YouTube.com, *Dr. Tony Fauci - PCR cycles* (October 30, 2020), <https://www.youtube.com/watch?v=A867t1JbIrs>.

1 stated above, this mass testing has resulted in dramatically inflated case numbers that do not reflect  
2 reality and falsely overstate the number of COVID cases.

3 62. As a result, the data regarding COVID cases being used to shape public policy is highly  
4 inflated.

5 **iii. The COVID Hospitalization Count Is Highly Inflated**

6 63. Every patient that is admitted to a hospital is subject to a PCR test due to the perceived  
7 COVID Emergency.

8 64. The PCR test used upon admission is subject to the numerous flaws identified above,  
9 and, therefore, results in the dramatic inflation of COVID patients who have been hospitalized.

10 65. Moreover, the CARES Act increases reimbursements to hospitals for all patients who  
11 have been diagnosed with COVID, creating an economic incentive for hospitals to find a COVID  
12 diagnosis.

13 66. As a result, the COVID hospitalization data being used to shape public policy is highly  
14 inflated.

15 **iv. The COVID Death Count Is Highly Inflated**

16 67. On March 24, 2020, the CDC issued COVID Alert Number 2. This Alert substantially  
17 changed how the cause of death was to be recorded exclusively for COVID. The modification ensured  
18 that in any case where the deceased had a positive PCR test for COVID, then COVID was listed as  
19 the cause of death.

20 68. Prior to this March 24, 2020, change in procedure, COVID would only have been listed  
21 as the cause of death in those cases where COVID was the actual cause of death. If the deceased had  
22 a positive PCR test for COVID, but had died of another cause, then COVID would have been listed  
23 as a contributing factor to the death, but not the cause.

24 69. The 2003 CDC Medical Examiner's and Coroner's Handbook on Death Registration  
25 and Fetal Death Reporting states that in the presence of pre-existing conditions infectious disease is  
26 recorded as the contributing factor to death, not the cause. This was always the reporting system until  
27 the death certificate modification issued by the CDC on March 24, 2020.

70. This death certificate modification by the CDC was not made for any other disease; only COVID. Accordingly, a double standard was created for the recordation of deaths, skewing the data for all deaths after March 24, 2020, reducing the number of deaths from all other causes, and dramatically increasing the number of deaths attributed to COVID.

71. As a result, the COVID death data used to shape public health policy is significantly inflated.<sup>12</sup>

**v. COVID Has an Extremely High Survivability Rate**

72. According to the CDC the survivability of COVID-19 is extraordinarily high. Survival rates under age 20 is 99.997%, 20-50 is 99.98%, 50-70 is 99.5% and 70+ is 94.6%. These figures calculate the percentage of confirmed COVID infected patients who survive.

73. By comparison, the smallpox epidemic of the early 1900s is reported to have been fatal to over 30% of those who contracted it, according to the FDA.

**vi. COVID Survivors Enjoy Robust Natural Immunity**

74. Those who recover from infection from COVID, over 99% of those who are infected, enjoy robust and durable natural immunity. Natural immunity is superior to vaccine-induced immunity resulting from the COVID vaccines, which do not prevent re-infection or transmission of COVID, and do not prevent infection, re-infection or transmission of the current Delta strain.

**B. Mandating COVID Vaccination Is Contrary to Public Policy.**

75. As the CDC tacitly concedes by changing its own definitions of “Vaccine” and “Vaccination,” the COVID vaccines are not vaccines in the traditional sense. For example, the FDA classifies them as “CBER-Regulated Biologics” otherwise known as “therapeutics” which falls under the “Coronavirus Treatment Acceleration Program.”<sup>13</sup>

<sup>12</sup> CDC, *COVID-19 Forecasts: Deaths* <https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/forecasting-us.html> (Last visited January 4, 2022)

<sup>13</sup> FDA, *Coronavirus (COVID-19) | CBER-Regulated Biologics*, <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics> (Last visited January 4, 2022); FDA, *Coronavirus Treatment Acceleration Program (CTAP)*, <https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap> (last visited January 4, 2022).

76. The Vaccines are misnamed since they do not prevent either re-infection or transmission of the disease, the key elements of a vaccine. The CDC has publicly stated that the Vaccines are effective in reducing the severity of the disease but not infection, re-infection, or transmission. Indeed, as noted above, the CDC has stricken the very word “immunity” from its definitions of “Vaccine” and “Vaccination.” The injection is therefore a treatment, not a vaccine.

77. The current strain of COVID is the Delta strain.<sup>14</sup> The CDC Director has stated that the vaccines do not stop the transmission of the Delta strain. Studies show the Delta strain passes easily amongst vaccinated persons.<sup>15</sup> The CDC website states: “... preliminary evidence suggests that fully vaccinated people who do become infected with the Delta variant can spread the virus to others.”<sup>16</sup>

78. The effectiveness of the COVID vaccines has been determined to wane rapidly. Israel, the most vaccinated and studied nation, now expires the vaccine’s effectiveness at six months.<sup>17</sup> The requirement for booster shots due to this waning of effectiveness has been recognized by the CDC, which initially recommended no booster shots, then annually, then at 8 months and then 6 months.

79. It has been well known to scientists for decades that vaccines that don’t stop transmission but merely lessen symptoms (“leaky vaccines”) are harmful to the public health. “Our data show that anti-disease vaccines that do not prevent transmission can create conditions that promote the emergence of pathogen strains that cause more severe disease in unvaccinated hosts.”<sup>18</sup>

80. Whether the variant is delta, omicron, or the next variant, scientists have been concerned about the possibility of vaccine-resistant strains of SARS-CoV-2 since the leaky vaccines were released one year ago. This has been published innumerable times in peer reviewed scientific journals with scientific titles such as: Risk of rapid evolutionary escape from biomedical interventions targeting SARS-CoV-2 spike protein. “The deployment of vaccines against SARS-CoV-2 brings the

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<sup>14</sup> CDC, Variant Proportions (last accessed September 30, 2021), <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>

<sup>15</sup> The Lancet, Transmission of SARS-CoV-2 Delta Variant Among Vaccinated Healthcare Workers, Vietnam (August 10, 2021) <https://ssrn.com/abstract=3897733>

<sup>16</sup> <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

<sup>17</sup> <https://www.businessinsider.com/israel-vaccine-pass-to-expire-after-6-months-booster-shots-2021-9>

<sup>18</sup> <https://www.ncbi.nlm.nih.gov/labs/pmc/articles/PMC4516275/>



question of mutational escape from antibody prophylaxis to the forefront. Rapid evolutionary evasion of neutralizing antibodies (nAbs) poses a number of threats to biomedical interventions aimed at bringing the virus under control, namely the risk of reduced vaccinal efficacy over time as resistant variants continue to emerge (which may or may not be rectifiable with annual vaccine updates), the risk of waning effectiveness of natural immunity as a result of evasion of common nAbs, and the risk of antibody-dependent enhancement (ADE).<sup>19</sup>

81. The Journal Nature published on October 25, 2021 an article titled: “The spike protein of SARS-CoV-2 variant is heavily mutated and evades vaccine-induced antibodies with high efficiency.” The introduction states: “the emergence of SARS-CoV-2 variants with S protein mutations that confer resistance to neutralization might compromise vaccine efficacy.” And it concludes: “Collectively, our results suggest that the SARS-CoV-2 variant A.30 can evade control by vaccine-induced antibodies and might show an increased capacity to enter cells in a cathepsin L-dependent manner, which might particularly aid in the extrapulmonary spread.”<sup>20</sup>

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

- a. **NIAID Director Dr. Anthony Fauci** to NPR: “We know now as a fact that [vaccinated people with Covid-19] are capable of transmitting the infection to someone else.”<sup>21</sup>
- b. **WHO Chief Scientist Dr. Soumya Swaminathan**: “At the moment I don't believe we have the evidence of any of the vaccines to be confident that it's going to prevent people from actually getting the infection and therefore being able to pass it on.”<sup>22</sup>

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<sup>19</sup> <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0250780>

<sup>20</sup> <https://www.nature.com/articles/s41423-021-00779-5>

<sup>21</sup> Stieg, C (July 28, 2021). *Dr. Fauci on CDC mask guidelines: ‘We are dealing with a different virus now.* <https://www.cnbc.com/2021/07/28/dr-fauci-on-why-cdc-changed-guidelines- delta-is-a-different-virus.html>.

<sup>22</sup> <https://www.businessinsider.com/who-says-no-evidence-coronavirus-vaccine-prevent-transmissions-2020-12?op=1>

- 1 c. **Chief Medical Officer of Moderna Dr. Tal Zaks:** “There’s no hard evidence that it  
2 stops them from carrying the virus transiently and potentially infecting others who  
3 haven’t been vaccinated.”<sup>23</sup>
- 4 d. **The Prime Minister of the United Kingdom, the Honorable Boris Johnson:** “... but  
5 it doesn’t protect you against catching the disease and it doesn’t protect you against  
6 passing it on”<sup>24</sup>
- 7 e. **The Surgeon General of the State of Florida, Dr. Joseph Ladapo, MD, PhD:** “...  
8 the infections can still happen whether people are vaccinated or not. That’s very  
9 obvious.”<sup>25</sup>
- 10 f. **Professor Sir Andrew Pollard who led the Oxford vaccine team:** “We don’t have  
11 anything that will stop transmission, so I think we are in a situation where herd  
12 immunity is not a possibility and I suspect the virus will throw up a new variant that  
13 is *even better* at infecting vaccinated individuals.”<sup>26</sup>
- 14 g. “Based on this data it is all but a certainty that mass COVID-19 immunization is  
15 hurting the health of the population in general. Scientific principles dictate that the  
16 mass immunization with COVID-19 vaccines must be halted immediately because we  
17 face a looming vaccine induced public health catastrophe.”<sup>27</sup>
- 18 h. **2008 Nobel Prize winner in Medicine Dr. Luc Montagnier (and the French National**  
19 **Order of Merit and 20 other major international awards):** “The vaccines don’t stop the  
20 virus, they do the opposite – they “feed the virus,” and facilitate its development into  
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23 <sup>23</sup> <https://nypost.com/2020/11/24/moderna-boss-says-covid-shot-not-proven-to-stop-virus-spread/>

24 <sup>24</sup> <https://www.youtube.com/watch?v=h52zphGRDpg>

25 <sup>25</sup> <https://twitter.com/4patrick7/status/1452309002021388296?s=21>

26 <sup>26</sup> <https://rightsfreedom.wordpress.com/2021/08/14/vaccines-dont-stop-transmission-and-wont-give-us-herd-immunity-so-lets-stop-mass-testing-experts-tell-mps/>

27 <sup>27</sup> Classen B (August 25, 2021). *US COVID-19 Vaccines Proven to Cause More Harm than Good Based on Pivotal Clinical Trial Data Analyzed Using the Proper Scientific Endpoint, “All Cause Severe Morbidity”*. Trends Int Med. 2021; 1(1): 1-6. <https://www.scivisionpub.com/pdfs/us-covid19-vaccines-proven-to-cause-more-harm-than-good-based-on-pivotal-clinical-trial-data-analyzed-using-the-proper-scientific--1811.pdf>.

stronger and more transmissible variants... You see it in each country, it's the same: the curve of vaccination is followed by the curve of deaths ... the vaccines Pfizer, Moderna, Astra Zeneca do not prevent the transmission of the virus person-to-person and the vaccinated are just as transmissible as the unvaccinated."<sup>28</sup>

i. Dr. Vanden Bossche, **international vaccinologist formerly with the Bill & Melinda Gates Foundation**: "As a dedicated virologist and vaccine expert I only make an exception [to vaccines] when health authorities allow vaccines to be administered in ways that threaten public health, most certainly when scientific evidence is being ignored. The present extremely critical situation forces me to spread this emergency call. As the unprecedented extent of human intervention in the COVID-19 pandemic is now at risk of resulting in a global catastrophe without equal, this call cannot sound loudly and strongly enough.... In this agonizing letter I put all of my reputation and credibility at stake ...continued mass vaccination, together with the predominant circulation of more infectious variants (as facilitated by mass vaccination!), will inevitably lead to relatively higher morbidity and mortality rates in vaccinees than in the nonvaccinated."<sup>29</sup>

j. A study of a COVID-19 outbreak in July 2021 published in **Eurosurveillance** observed that 100% of severe, critical, and fatal cases of COVID-19 occurred in vaccinated individuals. The authors stated that the study "challenges the assumption that high universal vaccination rates will lead to herd immunity and prevent COVID-19 outbreaks."<sup>30</sup>

k. **Dr. Jay Bhattacharya, MD, PhD, Professor of Health Policy, Stanford**

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<sup>28</sup> <https://www.google.com/search?client=safari&rls=en&q=rumble+and+luc+montagnier&ie=UTF-8&oe=UTF-8>

<sup>29</sup> Vanden Bossche, G (2021). *Mass infection prevention and mass vaccination with leaky Covid-19 vaccines in the midst of the pandemic can only breed highly infectious variants*. Open Letter to World Health Organization. <https://www.geertvandenbossche.org/>.

<sup>30</sup> Pnina, S. et al (September 23, 2021). *Nosocomial outbreak caused by the SARS-CoV-2 Delta variant in a highly vaccinated population, Israel, July 2021*. Euro Surveill. 2021;26(39):pii=2100822. <https://doi.org/10.2807/1560-7917.ES.2021.26.39.2100822>.

**University:** “There’s no public health reason for a mandate. ... bad for public health because it causes people not to trust health officials.”<sup>31</sup>

l. **Dr. Martin Kulldorff, Professor of Medicine at Harvard Medical School:** “The bottom line is that these vaccines do not prevent transmission.”<sup>32</sup>

m. **Dr. Sunetra Gupta, Infectious Disease Epidemiologist and Professor of Theoretical Epidemiology at the University of Oxford:** “...it is really not logical to use vaccines to protect other people ... I don’t think they should be forced to on the understanding simply because this vaccine does not prevent transmission. So if you just think of the logic of it, what is the point of requiring a vaccine to protect others if that vaccine does not durably prevent onward transmission of a virus?”<sup>33</sup>

n. In the heavily vaccinated **State of Vermont**, 76% of deaths are among the vaccinated.<sup>34</sup>

o. **A CDC investigation** of an outbreak in Barnstable County, Massachusetts, between July 6 through July 25, 2021, found 74% of those who received a diagnosis of COVID-19, and 80% of hospitalizations, were among the fully vaccinated, as most (but not all), had the Delta variant of the virus (note: since the County did not have a population that was 74% fully COVID-19 vaccinated, this would mean the vaccines *increase* the odds of being infected with COVID-19).<sup>35</sup>

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<sup>31</sup> <https://www.newsweek.com/stanford-doc-jay-bhattacharya-calls-vaccine-mandates-unethical-says-patients-can-choose-1611938>

<sup>32</sup> <https://www.theburningplatform.com/2021/10/23/who-are-these-covid-19-vaccine-skeptics-and-what-do-they-believe/>

<sup>33</sup> <https://richieallen.co.uk/oxford-scientist-its-illogical-unethical-to-force-jab-on-nhs-staff/>

<sup>34</sup> Page, G. (September 30, 2021). *76% of September Covid-19 deaths are vax breakthroughs*. The Vermont Daily Chronicle. <https://vermontdailychronicle.com/2021/09/30/76-of-september-covid-19-deaths-are-vaxxed-breakthroughs/> ("Just eight of the 33 Vermonters who died of Covid-19 in September were unvaccinated, the Vermont Department of Heath said Wednesday.")

<sup>35</sup> Brown CM, et al. (July 2021). *Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021*. MMWR Morb Mortal Wkly Rep 2021;70:1059-1062. [https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s\\_cid=mm7031e2\\_w](https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w).

- p. Scientists and clinicians monitoring patients in real time are achieving superior health outcomes than CDC recommendations, utilizing therapeutic protocols (such as ivermectin)<sup>36</sup>, and emphasizing the robustness of natural immunity. An example of this came recently from **Dr. Marty Makary, a professor at the Johns Hopkins Bloomberg School of Public Health**, who stated publicly that because “half the country” likely already have natural lifelong immunity to COVID-19, “I never thought I’d say this, but please ignore the CDC guidance.”<sup>37</sup>
- q. **Dr. Peter McCullough, author of more than 1000 publications and 500 citations** in the National Library of Medicine, President Bill Clinton’s advisory panel to health care, Chair of more than 24 data safety monitoring boards for the NIH and FDA: “Vaccines do not stop transmission. During an outbreak, healthcare workers were still getting Covid during the lockdown and passing it to one another.”<sup>38</sup> And “New research [Oxford University] shows people who are vaccinated against COVID are more susceptible to the Delta variant.”<sup>39</sup>
- r. On August 1, 2021, the **director of Israel’s Public Health Services** announced half of all COVID-19 infections were among the fully vaccinated.<sup>40</sup>
- s. On August 5, 2021, the **director of the Herzog Hospital in Jerusalem** appeared on

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Lovelace, B (July 30, 2021). *CDC study shows 74% of people infected in Massachusetts Covid outbreak were fully vaccinated*. CNBC News. <https://www.cnbc.com/2021/07/30/cdc-study-shows-74percent-of-people-infected-in-massachusetts-covid-outbreak-were-fully-vaccinated.html>.

<sup>36</sup> Covid Analysis (October 13, 2021). *COVID-19 early treatment: real-time analysis of 1,017 studies*. <https://c19early.com/>.

<sup>37</sup> Shiver, P. (May 2021). *John Hopkins professor says 'ignore the CDC' - 'natural immunity works'*. Blaze Media. <https://www.theblaze.com/news/johns-hopkins-professor-ignore-cdc-natural-immunity-works> (“Natural immunity works... We've got to start respecting individuals who choose not to get the vaccine, instead of demonizing them. There is more data on natural immunity than there is on vaccinated immunity, because natural immunity has been around longer.”)

<sup>38</sup> <https://childrenshealthdefense.org/defender/rfk-jr-podcast-dr-peter-mccullough-vaccines-are-failing/>

<sup>39</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3897733](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3897733)

<sup>40</sup> Bloomberg News (August 1, 2021). *Israel sees waning coronavirus vaccine effectiveness*. <https://www.bostonglobe.com/2021/08/01/nation/israel-sees-waning-coronavirus-vaccine-effectiveness/>.

Channel 13 News, reporting that 95% of severely ill COVID-19 patients are fully vaccinated, and that they make up 85% to 90% of COVID-19 related hospitalizations overall.<sup>41</sup>

- t. 21 Israeli physicians, scientists advise FDA of ‘severe concerns’ regarding reliability and legality of official Israeli COVID vaccine data: “We are aware that the state of Israel is perceived as ‘the world laboratory’ regarding the safety and efficacy of the Pfizer-BioNTech COVID-19 vaccine, as reflected by statements made by Dr. Albert Bourla, Dr. Anthony Fauci. We thus see it of utmost importance to convey a message of warning and raise our major concerns regarding potential flaws in the reliability of the Israeli data with respect to the Pfizer-BioNTech COVID-19 vaccine, as well as many significant legal and ethical violations that accompany the data collection processes.”<sup>42</sup>
- u. In Scotland, official data on hospitalizations and deaths show 87% of those who have died from COVID-19 in the third wave that began in early July were vaccinated.<sup>43</sup>
- v. Undercover video and emails from US health agencies and vaccine manufacturers confirm<sup>44</sup> that (1) vaccine injuries are underreported because vested interests want to “shove it under the mat”,<sup>45</sup> (b) vaccine tracking is implemented in a fascist manner,

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<sup>41</sup> Fleetwood, J. (August 8, 2021). *Vaxxed Make Up '85-90% of the Hospitalizations' from Covid Infection in Israel: Dr. Kobi Haviv*. American Faith. <https://americanfaith.com/vaxxed-make-up-85-90-of-the-hospitalizations-from-covid-infection-in-israel-dr-kobi-haviv/>.

<sup>42</sup> <https://americasfrontlinedoctors.org/2/frontlinenews/breaking-israeli-physicians-scientists-advise-fda-of-severe-concerns-regarding-reliability-and-legality-of-official-israeli-covid-vaccine-data/>

<sup>43</sup> Daily Expose (July 29, 2021). *Exclusive - Covid-19 are rising and official data shows 87% of the people who have died were vaccinated*. Daily Expose. <https://dailyexpose.co.uk/2021/07/29/87-percent-covid-deaths-are-vaccinated-people/>; see also Daily Expose (September 8, 2021). *80% of Covid-19 deaths in August were people who had been vaccinated according to Public Health data*. Daily Expose. <https://theexpose.uk/2021/09/08/exclusive-80-percent-of-covid-19-deaths-in-august-were-people-who-had-been-vaccinated/>.

<sup>44</sup> Project Veritas (2021). *COVID-19 Vaccine Exposed*. <https://www.projectveritas.com/>.

<sup>45</sup> This observation is also corroborated by (a) the Lazarus report from Harvard Pilgrim evidencing that less than 1% of vaccine adverse events are reported to VAERS (<https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf>), and (b) in another case filed by Plaintiff AFLDS, see the declaration of a whistleblower who compared the

(c) vaccination is both unnecessary and harmful, (d) natural immunity is superior to vaccination, and (e) vaccine manufacturers actively conceal from the public the use of aborted fetuses to develop vaccines.

**C. VAERS Reports Point to Significant Levels of Vaccine Injury.**

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

84. It has been well established even prior to COVID that only 1-10% of adverse events are reported. This is known as the “Under-Reporting Factor” (“URFs”). While many reported adverse events are mild, about 15% of total adverse events are found to be serious adverse events.

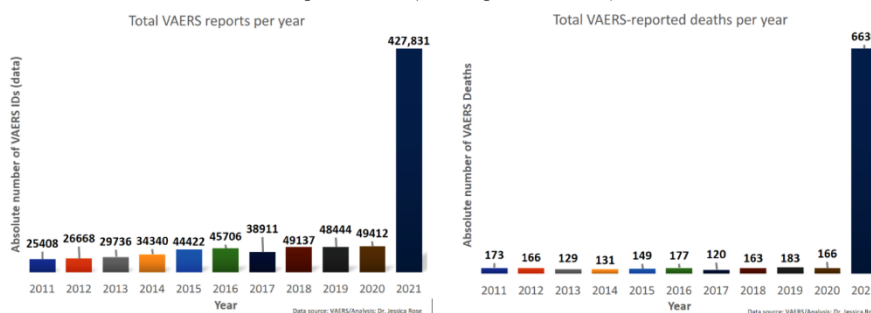
85. The long-established CDC database VAERS demonstrates significantly higher reports of deaths and adverse events with the COVID vaccines than with prior vaccines. There are reports of neurological adverse events, including Guillain-Barre, Bell’s Palsy, Transverse Myelitis, Paralysis, Seizure, Stroke, Dysstasia, Aphasia, and Tinnitus, as well as cardiovascular events such as clot and cardiac arrest.

86. As one can see from this chart, VAERS reports regarding the COVID vaccines are extraordinarily high.

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high number of vaccine deaths in private CMS medical claims to the low number of vaccine deaths reported to VAERS. *America’s Frontline Doctors, et al. v. Becerra et al.* Case 2:21-cv-00702-CLM, United States District Court (Northern District of Alabama), Dkt. 15-4 (Declaration filed 07/19/21).

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



#### D. COVID Vaccines Create Immunological Cripples, Vaccine Addicts, Super-Spreaders, and a Higher Chance of Death and Severe Hospitalization

87. The COVID vaccines are not traditional vaccines. Instead most carry coded instructions that cause cells to reproduce one portion of the SARS-CoV-2 virus, the spike protein. The vaccines thus induce the body to create spike proteins. A person only creates antibodies against this one limited portion (the spike protein) of the virus. This has several downstream deleterious effects.

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

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

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



91. In addition, the vaccinated may become more clinically ill than the unvaccinated. Scotland reported that the infection fatality rate in the vaccinated is 3.3 times the unvaccinated and the risk of death if hospitalized is 2.15 times the unvaccinated.<sup>46</sup>

#### **E. Effective Treatments Are Available**

##### **i. Ivermectin Is Effective**

92. Ivermectin--a cheap, safe, widely available generic medication, whose precursor won the Nobel Prize in Medicine in 2015--treats and cures SARS-CoV-2 infection, both while in the early infectious stage and later stages.<sup>47</sup> The evidence is both directly observed in multiple randomized controlled trials and epidemiological evidence worldwide. There are now more than sixty (60) studies demonstrating its efficacy as well as noting that nations that use ivermectin see their death rates plummet to 1% of the death rates of nations that do not.

##### **ii. Hydroxychloroquine Is Effective**

93. Hydroxychloroquine (HCQ) is a cheap, safe, widely available generic medication used billions of times annually in all countries around the world including the United States. It is typically prescribed for rheumatoid arthritis and lupus. HCQ treats and cures SARS-CoV-2 infection effectively in the early infectious stage. HCQ also provides substantial reduction in mortality in later stages.<sup>48, 49</sup> There are now more than 300 studies demonstrating its efficacy and nations that use HCQ have 1-10% of the death rate of nations that do not. HCQ is on the WHO's List of Essential Medications that all nations should always have available. Chloroquine (an earlier version of HCQ) has been in continuous use for SARS-CoV-2 in China since February 2020.<sup>50</sup>

##### **iii. Budesonide Is Effective**

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<sup>46</sup> [https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-08-04-covid19-publication\\_report.pdf](https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-08-04-covid19-publication_report.pdf), [https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-09-01-covid19-publication\\_report.pdf](https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-09-01-covid19-publication_report.pdf)

<sup>47</sup> <https://ivmmeta.com/ivm-meta.pdf>

<sup>48</sup> <https://hcqmeta.com>

<sup>49</sup> [https://docs.google.com/document/d/1vDD8JkHe62hmpkalx1tejkd\\_zDnVwJ9XXRjgXAclqUc/edit](https://docs.google.com/document/d/1vDD8JkHe62hmpkalx1tejkd_zDnVwJ9XXRjgXAclqUc/edit)

<sup>50</sup> [https://www.jstage.jst.go.jp/article/bst/14/1/14\\_2020.01047/\\_article](https://www.jstage.jst.go.jp/article/bst/14/1/14_2020.01047/_article)

94. Budesonide, a cheap, safe, widely available generic inhaler medication used commonly in the United States, typically for emphysema, effectively treats SARS-CoV-2 infection while in the early infectious stage.<sup>51</sup> This was published in The Lancet in April 2021.<sup>52</sup> The trial at ClinicalTrials.gov was stopped early because steroids were shown to be so effective.<sup>53</sup>

**iv. Monoclonal Antibodies Are Effective**

95. Monoclonal antibodies are approved for COVID early treatment and are highly effective and universally safe.

**FIRST CAUSE OF ACTION**

**Violation Of Constitutionally Protected Autonomous Privacy Rights  
California Constitution, Article 1, Section 1**

**(Individual Plaintiffs Against all Defendants)**

96. Plaintiffs re-allege each of the preceding paragraphs, above as though fully set forth herein.

97. The California Constitution, Article 1, Section I provides that “[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”

98. The fundamental right to pursue and obtain safety, happiness, and privacy, as expressed through public policies of this State, is protected against all state action.

99. The right of individuals to determine what is done to their own bodies is one such expressed public policy of this State; and is an inalienable autonomy privacy right protected under the California Constitution and at common law.

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<sup>51</sup> [https://c19protocols.com/wp-content/uploads/2021/03/COVID\\_Budesonide\\_Oxford-Based\\_Dosing\\_Guidance.pdf](https://c19protocols.com/wp-content/uploads/2021/03/COVID_Budesonide_Oxford-Based_Dosing_Guidance.pdf)

<sup>52</sup> The Lancet, *Inhaled Budesonide in the treatment of early COVID-19 (STOIC): a phase 2, open-label randomized controlled trial* (July 1, 2021), [https://www.thelancet.com/article/S2213-2600\(21\)00160-0/fulltext](https://www.thelancet.com/article/S2213-2600(21)00160-0/fulltext)

<sup>53</sup> ClinicalTrials.gov, *STerOids in COVID-19 Study (STOIC)* (February 8, 2021), <https://clinicaltrials.gov/ct2/show/NCT04416399>; The Lancet – Respiratory Medicine, *Inhaled budesonide in the treatment of early COVID-19 (STOIC): a phase 2, open-label, randomised controlled trial* (April 9, 2021) [https://www.thelancet.com/article/S2213-2600\(21\)00160-0/fulltext](https://www.thelancet.com/article/S2213-2600(21)00160-0/fulltext).

1           100. In addition, the right to exercise informed consent to accept, or not accept, novel and  
2 unproven medical treatments without force, fraud, deceit, duress, coercion, or undue influence is  
3 another expressed public policy of this State; and is an inalienable autonomy privacy right protected  
4 under the California Constitution, Article 1, Section I, and at common law.

5           101. Plaintiffs have a legally protected privacy interest in their bodily integrity and their  
6 right to choose which medical treatment they receive. They also have a reasonable expectation of  
7 privacy in these circumstances, as the long-term side effects of the COVID vaccines are presently  
8 unknown to a reasonable degree of scientific certainty. Indeed, long-term side effects are typically  
9 studied for 10 years before FDA approval is granted to any proposed drug or medication. That level  
10 of rigorous experimental evaluation of safety and efficacy has not yet occurred with respect to the  
11 COVID vaccines. It is therefore fair and reasonable for Plaintiffs—or anyone—to object to a COVID  
12 injection until long-term side effects are understood.

13           102. Further, it is scientifically irrefutable that current vaccines available do not prevent  
14 spread of the Omicron or Delta variants of the COVID virus and, in fact, might increase spread of the  
15 virus due to viral load factors. Thus, Plaintiffs are entitled to reasonable accommodations under law  
16 that allow them to continue employment without taking a COVID vaccine, but the City has refused to  
17 provide such accommodations.

18           103. Given these issues and concerns, the Defendants’ act of mandating that Plaintiffs take  
19 the COVID vaccine or be fired—and their conditioning of future employment on proof of COVID  
20 vaccination—constitutes a serious invasion of the Plaintiffs’ privacy and violates the California  
21 Constitution.

22           104. In light of existing reasonably available accommodations that may be presented at the  
23 time of hearing or trial in this matter, Defendants have no legitimate employer interest in mandating  
24 vaccinations for City employees.

25           105. An existing justiciable controversy exists between Plaintiffs and Defendants with  
26 respect to Defendants’ Mandate for all City employees to receive a COVID vaccination and Plaintiffs’  
27 objection to this Mandate.

106. Pursuant to CCP §1060, and at common law, Plaintiffs are entitled to declaratory relief that:

107. Defendant's requirement that Plaintiffs must receive a COVID Vaccination as a condition of continued employment violates Plaintiffs' inalienable autonomous rights to determine what is done to their own bodies;

108. Defendant's requirement that Plaintiffs must receive a COVID Vaccination as a condition of continued employment violates Plaintiffs' inalienable autonomous rights to exercise informed consent to accept, or not accept, novel and unproven medical treatments without force, fraud, deceit, duress, coercion, or undue influence; and

109. Accommodations are reasonably available to Defendant that would allow continued employment without a COVID Vaccine.

110. Plaintiffs are entitled to preliminary and permanent injunctive relief prohibiting Defendant from enforcing its Mandate that Plaintiffs must receive a COVID Vaccination as a condition of continued employment;

111. Requiring Defendant to offer reasonable accommodations to Plaintiffs to allow continued employment without a COVID Vaccination; and

112. Prohibiting discrimination or retaliation.

113. Plaintiffs are entitled to a temporary restraining order prohibiting the Defendants' vaccination Mandate from going into effect until a preliminary injunction hearing in this matter and further order of this Court.

114. Plaintiffs are entitled to costs and attorneys' fees in this action pursuant to CCP §1021.5.

## **SECOND CAUSE OF ACTION**

### **Declaratory and Injunctive Relief under Cal. Constitution**

#### **(Individual Plaintiffs Against All Defendants)**

115. Plaintiffs reallege and incorporate by reference their allegations in each of the preceding paragraphs of the Complaint as if fully alleged herein.

116. The Plaintiffs are employed by the City. They have not complied with the City's Mandate, including reporting of their vaccination status. They object to being compelled to turn over their private medical information to the City as a condition of their continued employment.

117. Individuals have a right to privacy under the California Constitution. This state law privacy right, which was added by voters in 1972, is far broader than the right to privacy under the federal Constitution. It is the broadest privacy right in America and has been interpreted by the California Supreme Court to protect both the right to informational privacy and to bodily integrity.

118. City employees have a legally protected privacy interest not just in their bodily integrity, but their private medical information as well. Their expectation of privacy is reasonable. The City's Mandate constitutes a serious invasion of those privacy rights, as alleged above.

119. Although the City may argue that the vaccine Mandate serves a compelling interest, there are feasible and effective alternatives that have a lesser impact on privacy interests. Thus, the City's Mandate will not survive strict scrutiny.

120. On information and belief, the City contends that its Mandate does not violate the privacy rights of City employees or satisfies strict scrutiny.

121. Plaintiffs desire a judicial declaration that the City's Mandate is facially unconstitutional because it violates the City's employees' right to privacy under the California Constitution.

122. A judicial determination of these issues is necessary and appropriate because such a declaration will clarify the parties' rights and obligations, permit them to have certainty regarding those rights and potential liability, and avoid a multiplicity of actions.

123. The City's actions are harming Plaintiffs and other City employees, as alleged above.

124. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the Court does not declare the Mandate unconstitutional. Thus, they seek preliminary and permanent injunctive relief enjoining the City from enforcing the Mandate.

125. This action serves the public interest, justifying an award of attorneys' fees under section 1021.5 of the California Code of Civil Procedure.

**THIRD CAUSE OF ACTION**

**Violation of Due Process – *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194**

**(Individual Plaintiffs Against all Defendants)**

126. Plaintiffs reallege and incorporate by reference their allegations in each of the preceding paragraphs of the Complaint as if fully alleged herein.

127. Defendants have suspended various City employees, including Plaintiffs by placing them on administrative leave without pay for failure to comply with the Mandate.

128. Under *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194 and its progeny, Plaintiffs have a property interest in continued employment with City protected by due process.

129. On information and belief, the City contends that it does not have to afford Plaintiffs a full and complete *Skelly* hearing and due process rights and has instead suspended its employees administratively including the Plaintiffs for five days or more, without pay, without a hearing prior to the adverse employment action and providing written notice explaining: (i) the charge; (ii) proposed discipline; (iii) the policy or rule violated; (iv) the factual basis for the same; (v) production of the documents purporting to support the charge(s); (vi) containing a date for an in-person hearing; and (vii) the deadline for any response; all prior to suspension of pay.

130. An actual controversy involving justiciable questions related to this controversy exists related to the rights and obligations of the respective parties with respect to Plaintiffs' and City employees' rights under *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194 and its progeny

131. Plaintiffs seek a judicial declaration that proceeding with the imposition of the threatened employment sanctions is a violation of *Skelly* and seek an order restraining and enjoining Defendants from proceeding with the imposition of the threatened employment sanctions before affording due process under *Skelly*.

132. This action serves the public interest, justifying an award of attorneys' fees under section 1021.5 of the California Code of Civil Procedure.

**FOURTH CAUSE OF ACTION**

**Invasion of Privacy**

**(Individual Plaintiffs Against all Defendants)**

133. Plaintiffs reallege and incorporate by reference their allegations in each of the preceding paragraphs of the Complaint as if fully alleged herein.

134. Plaintiffs, and all of them, have a reasonable expectation of privacy in their medical information, the discovery and exposure of which is highly offensive to a reasonable person.

135. Defendants are intentionally, unreasonably and unnecessarily intruding on Plaintiffs' medical information by requiring that they disclose their vaccination status to Defendants.

136. As a result of Defendants' unreasonable conduct in accessing said information, Plaintiffs are being harmed and injured to an extent that has not, as yet, been fully quantified.

137. The Plaintiffs have not complied with the City's Mandate, including the reporting of their vaccination status. They object to being compelled to turn over their private medical information to the City as a condition of their continued employment.

138. Individuals have a right to privacy under the California Constitution. This state law privacy right, which was added by voters in 1972, is far broader than the right to privacy under the federal Constitution. It is the broadest privacy right in America and has been interpreted by the California Supreme Court to protect both the right to informational privacy and to bodily integrity.

139. City employees have a legally protected privacy interest not just in their bodily integrity, but in their private medical information as well. Their expectation of privacy is reasonable. The City's Mandate constitutes a serious invasion of those privacy rights, as alleged above. Defendants' intrusion into Plaintiffs' private medical affairs would be highly offensive to a reasonable person.

140. Although the City may argue that the vaccine Mandate and disclosure of vaccination

1 status serves a compelling interest, there are feasible and effective alternatives that have a lesser  
2 impact on privacy interests. Thus, the City's Mandate will not survive strict scrutiny.

3 141. On information and belief, the City contends that its Mandate does not violate the  
4 privacy rights of City employees or satisfies strict scrutiny.

5 142. Plaintiffs desire a judicial declaration that the City's Mandate is facially  
6 unconstitutional because it violates the City's employees' right to privacy under the California  
7 Constitution.

8 143. A judicial determination of these issues is necessary and appropriate because such a  
9 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding  
10 those rights and potential liability, and avoid a multiplicity of actions.

11 144. The City's actions are harming Plaintiffs and other City employees as alleged above.  
12 Defendants' conduct is a substantial factor in causing Plaintiffs' harm.

13 145. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the  
14 Court does not declare the Mandate unconstitutional. Thus, they seek preliminary and permanent  
15 injunctive relief enjoining the City from enforcing the Mandate.

16 146. This action serves the public interest, justifying an award of attorneys' fees under  
17 section 1021.5 of the California Code of Civil Procedure.

## 18 **FIFTH CAUSE OF ACTION**

### 19 **Public Disclosure of Private Facts**

#### 20 **(Individual Plaintiffs Against all Defendants)**

21 147. Plaintiffs reallege and incorporate by reference their allegations in each of the  
22 preceding paragraphs of the Complaint as if fully alleged herein.

23 148. Defendants received private, biological and genetic information from Plaintiffs by  
24 requiring biological tests preparatory for requiring mandatory vaccination as a condition of retained  
25 employment. Plaintiffs are informed and believe and thereon allege that Defendants are disclosing



1 the information derived from said tests to Fulgent (or other third party provider) under a contract that  
2 enabled Fulgent to utilize blockchain technology to keep, retain and share said information to  
3 unlimited persons and companies unknown, including governmental agencies, without the  
4 knowledge, permission or consent of the Plaintiffs. The information derived by the Defendants and  
5 proposed for disclosure to Fulgent and, through Fulgent or through another third party entity,  
6 publicly to thousands of persons and companies unknown to Plaintiffs, was private and intended to  
7 be so kept, the disclosure of which would be highly offensive to persons of normal sensibility.

8 149. Defendants know or are acting with reckless disregard of the fact that the disclosure  
9 and dissemination of said information is highly offensive and damaging to the Plaintiffs and,  
10 disregarding their duty, are actively disclosing same.

11 150. Defendants are actively disclosing information that is of no legitimate concern to  
12 those who receive it and those to whom it is disseminated.

13 151. Plaintiffs desire a judicial declaration that the City's Mandate is facially  
14 unconstitutional because it violates the City's employees' right to privacy under the California  
15 Constitution.

16 152. A judicial determination of these issues is necessary and appropriate because such a  
17 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding  
18 those rights and potential liability, and avoid a multiplicity of actions.

19 153. The City's actions are harming Plaintiffs, among other City employees, as alleged  
20 above. Defendants' ongoing conduct is a substantial factor in the cause of Plaintiffs' harm.

21 154. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the  
22 Court does not declare the Mandate unconstitutional and disclosure wrongful. Thus, they seek  
23 preliminary and permanent injunctive relief enjoining the City from enforcing the Mandate.  
24

25 155. This action serves the public interest, justifying an award of attorneys' fees under  
26 section 1021.5 of the California Code of Civil Procedure.  
27  
28

**SIXTH CAUSE OF ACTION**

**Breach of Security for Computerized Personal Information**

**(Individual Plaintiffs Against all Defendants)**

156. Plaintiffs reallege and incorporate by reference their allegations in each of the preceding paragraphs of the Complaint as if fully alleged herein.

157. Defendants own computerized data, specifically genetic and medical data related to the Plaintiffs herein, that was represented to be private and protected. In violation of the Defendants' duties under California *Civil Code* 1798.29 and 1798.82, Defendants are allowing said information to be shared with Fulgent, or some other third party company that is actively disclosing same to unknown millions of people and organizations through the use of blockchain technology and pursuant to a contract with the City that allowed it to do so.

158. Defendants know or are acting with reckless disregard of the fact that the ongoing disclosure and dissemination of said information is highly offensive and damaging to the Plaintiffs and, disregarding their duty, continue to disclose the same.

159. The information Defendants are actively disclosing was not information of legitimate concern to those who receive it and those to whom it is disseminated.

160. As a result of the Defendants' conduct as herein alleged, Plaintiffs continue to be harmed and injured to an extent that has not, as yet, been fully quantified.

161. Plaintiffs desire a judicial declaration that the City's Mandate is facially unconstitutional because it violates the City's employees' right to privacy under California Civil Code.

162. A judicial determination of these issues is necessary and appropriate because such a declaration will clarify the parties' rights and obligations, permit them to have certainty regarding those rights and potential liability, and avoid a multiplicity of actions.

163. The City's actions are harming Plaintiffs, among other City employees, as alleged above. Defendants' conduct is a substantial factor in causing Plaintiffs' harm.

1 164. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the  
2 Court does not declare the Mandate unconstitutional. Thus, they seek preliminary and permanent  
3 injunctive relief enjoining the City from enforcing the Mandate.

4 165. This action serves the public interest, justifying an award of attorneys' fees under  
5 section 1021.5 of the California Code of Civil Procedure.

6 **SEVENTH CAUSE OF ACTION**

7 **Intentional Infliction of Emotional Distress**

8 **(Individual Plaintiffs Against all Defendants)**

9 166. Plaintiffs reallege and incorporate by reference their allegations in each of the  
10 preceding paragraphs of the Complaint as if fully alleged herein.

11 167. Defendants' imposition of mandatory vaccination in violation of the Plaintiffs' rights  
12 under Article 1, Section 1 of the Constitution of the State of California is and was accompanied by  
13 threats by Defendants of retaliation, termination of employment, loss of health and retirement  
14 benefits, loss of salary, and destruction of careers. The conduct as herein alleged is extreme and  
15 outrageous, knowingly and deliberately carried out for purposes of intimidation and coercion to  
16 force the Plaintiffs to accede to treatments the Defendants knew, or should have known, were neither  
17 fully tested nor safe and to which Plaintiffs have a sincere and deeply held conscientious objection to  
18 receiving.

19 168. As a result of Defendants' extreme and outrageous conduct, the Plaintiffs are  
20 suffering sleeplessness, anxiety, fear, apprehension, nausea and fatigue. Said conduct is resulting in  
21 Plaintiffs' extreme emotional distress to an extent that has not yet been fully quantified. Defendants'  
22 conduct is a substantial factor in Plaintiffs' severe emotional distress, as herein alleged.

23 169. Plaintiffs desire a judicial declaration that the City's Mandate is facially  
24 unconstitutional because it violates the City's employees' right to privacy under California Civil  
25 Code.  
26

27 170. A judicial determination of these issues is necessary and appropriate because such a  
28 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding

1 those rights and potential liability, and avoid a multiplicity of actions.

2 171. The City's actions are a continuing harm to Plaintiffs and other City employees  
3 as alleged above. Defendants' conduct is a substantial factor in causing Plaintiffs' harm.

4 172. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the  
5 Court does not declare the Mandate unconstitutional and prohibit the City from continuing its  
6 extreme, offensive and harmful course of conduct. Thus, they seek preliminary and permanent  
7 injunctive relief enjoining the City from enforcing the Mandate.

8 173. This action serves the public interest, justifying an award of attorneys' fees under  
9 section 1021.5 of the California Code of Civil Procedure.

## 11 **EIGHTH CAUSE OF ACTION**

### 12 **Intentional Infliction of Emotional Distress**

#### 13 **(Individual Plaintiffs Against all Defendants)**

14 174. Plaintiffs reallege and incorporate by reference their allegations in each of the  
15 preceding paragraphs of the Complaint as if fully alleged herein.

16 175. Defendants' continual disclosure of Plaintiff's private genetic and medical  
17 information to Fulgent or some other third party company, including the sharing of same with  
18 unknown persons and companies pursuant to its contract with Defendants herein, is extreme and  
19 outrageous conduct that would be offensive to a person of reasonable sensibility and is deeply  
20 offensive to the Plaintiffs herein.

21 176. As a result of Defendants' ongoing extreme and outrageous conduct, Plaintiffs are  
22 suffering sleeplessness, anxiety, fear, apprehension, nausea, and fatigue. Said ongoing conduct has  
23 caused Plaintiffs to suffer from ongoing extreme emotional distress and other harm to an extent that  
24 has not yet been fully quantified. Further, Defendants' ongoing conduct is a substantial factor in  
25 Plaintiffs' continual severe emotional distress, as herein alleged.

26 177. Plaintiffs desire a judicial declaration that the disclosure of Plaintiffs' private medical  
27 and genetic information is facially unconstitutional because it violates the City's employees' right to  
28

1 privacy under the California Civil Code.

2 178. A judicial determination of these issues is necessary and appropriate because such a  
3 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding  
4 those rights and potential liability, and avoid a multiplicity of actions.

5 179. The City's actions pose a continuing harm to Plaintiffs and other City employees  
6 as alleged above. Defendants' ongoing conduct is a substantial factor in causing Plaintiffs'  
7 continuing harm.

8 180. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the  
9 Court does not declare the wrongful disclosure of this information unconstitutional. Thus, they seek  
10 preliminary and permanent injunctive relief enjoining the City from disclosing Plaintiffs private  
11 medical and genetic information.

12 181. This action serves the public interest, justifying an award of attorneys' fees under  
13 section 1021.5 of the California Code of Civil Procedure.

14 **NINTH CAUSE OF ACTION**

15 **For Declaratory Relief**

16 **(Individual Plaintiffs Against all Defendants)**

17 182. Plaintiffs reallege and incorporate by reference their allegations in each of the  
18 preceding paragraphs of the Complaint as if fully alleged herein.

19 183. Defendants are threatening to demote Plaintiffs and to suspend or terminate their  
20 employment without pay and without due process if they refuse to submit to involuntary vaccination.  
21 Plaintiffs allege that that doing so would be a violation of the contract between the parties that  
22 requires that Defendants extend due process, notice and an opportunity to be heard before a neutral  
23 arbiter prior to imposing the discipline Defendants threaten.

24 184. An actual controversy involving justiciable questions related to this controversy exists  
25 related to the rights and obligations of the respective parties. Further, Plaintiffs have no adequate  
26

1 remedy at law and will suffer irreparable harm if the Court does not declare the City's actions to be  
2 in violation of the contract between the parties.

3 185. Plaintiffs seek a judicial declaration that proceeding with the imposition of the  
4 threatened employment sanctions without due process is a violation of the contract between the  
5 parties. Plaintiffs also seek preliminary and permanent injunctions prohibiting Defendants from  
6 imposing said employment sanctions without due process.

### 7 **TENTH CAUSE OF ACTION**

#### 8 **For Declaratory Relief**

#### 9 **(Individual Plaintiffs Against all Defendants)**

10 186. Plaintiffs reallege and incorporate by reference their allegations in each of the  
11 preceding paragraphs of the Complaint as if fully alleged herein.

12 187. As alleged hereinabove, the currently available COVID "vaccines" are not, in  
13 fact, vaccines as that term has been defined for decades by the federal government and in the English  
14 language. The currently available "vaccines" are, as alleged hereinabove, "treatments" as that term is  
15 currently defined and has been defined for decades. Accordingly, Plaintiffs have a constitutionally  
16 protected right to decline unwanted medical treatment and Defendants' threat to demote and  
17 terminate Plaintiffs from their employment with Defendants because of Plaintiffs' declination of  
18 current COVID treatments is contrary to law and to the constitutionally protected right to decline  
19 treatment employing the currently available COVID "vaccines". (*Cruzan v. Director, Missouri*  
20 *Department of Health* (1990) 497 U.S. 261 ("*Cruzan*").

21 188. Defendants are threatening to demote, suspend and terminate the Plaintiffs'  
22 employment for refusing unwanted medical treatment, which is a violation of law and the California  
23 Constitution.

24 189. An actual controversy involving justiciable questions related to this controversy exists  
25 related to the rights and obligations of the respective parties with respect to whether the Plaintiffs'  
26 right to refuse treatment prohibits Defendants from demoting or terminating Plaintiffs' employment  
27 for refusing to submit to unwanted medical treatment.  
28

## ELEVENTH CAUSE OF ACTION

### For Declaratory Relief

**(Individual Plaintiffs Against all Defendants)**

191. Plaintiffs reallege and incorporate by reference their allegations in each of the preceding paragraphs of the Complaint as if fully alleged herein.

192. Plaintiffs allege that the vaccines do not prevent infection or transmission of COVID. Defendants assert that the vaccines are effective at preventing and transmitting COVID. Given the scientific data referenced hereinabove, Plaintiffs allege that the vaccines are not effective in preventing infection or transmission of COVID and that as such, the Mandate is arbitrary and capricious and therefore void.

193. Accordingly, Plaintiffs seek a judicial declaration that the Mandate is not based upon substantial evidence, is arbitrary and capricious and is therefore improper and void.

194. A judicial determination of these issues is necessary and appropriate because such a declaration will clarify the parties' rights and obligations, permit them to have certainty regarding those rights and potential liability, and avoid a multiplicity of actions.

195. Plaintiffs have no adequate remedy at law and will suffer irreparable harm if the Court does not declare the Mandate void.

196. As such, Plaintiffs seek an order restraining and enjoining Defendants from enforcing the Mandate because it is arbitrary and capricious and is therefore void.

## PRAYER

Wherefore, Plaintiffs pray for judgment in their favor and against Defendants as follows:

**ON THE FIRST CAUSE OF ACTION**

1. A judicial declaration that the City's Mandate is facially unconstitutional because it violates Plaintiffs' and City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the vaccine mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE SECOND CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the vaccine mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE THIRD CAUSE OF ACTION**

1. A judicial declaration proceeding with the imposition of the threatened employment sanctions is a violation of *Skelly*; and

2. An order restraining and enjoining Defendants from proceeding with the imposition of the threatened employment sanctions before affording due process under *Skelly*.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE FOURTH CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.



**ON THE FIFTH CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE SIXTH CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under California law; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE SEVENTH CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

**ON THE EIGHTH CAUSE OF ACTION**

1. A judicial declaration that the City's COVID-19 vaccine mandate is facially unconstitutional because it violates City employees' right to privacy under the California Constitution; and

2. Preliminary and permanent injunctive relief enjoining the City from enforcing the mandate.

3. An award of costs and attorneys' fees pursuant to CCP §1021.5.

1 **ON THE NINTH CAUSE OF ACTION**

2 1. A judicial declaration that proceeding with the imposition of the threatened  
3 employment sanctions without due process is a violation of the contract between the parties; and

4 2. Preliminary and permanent injunctions prohibiting Defendants from imposing said  
5 employment sanctions without due process.

6 **ON THE TENTH CAUSE OF ACTION**

7 1. A judicial declaration that proceeding with the imposition of the threatened  
8 employment sanctions is a violation of Plaintiffs' constitutionally protected right to refuse treatment  
9 is prohibited under *Cruzan*; and

10 2. An order restraining and enjoining Defendants from violating Plaintiffs' rights under  
11 the Constitution and the authority of *Cruzan* and prohibiting Defendants from imposing any  
12 employment sanctions against Plaintiffs for refusing to submit to unwanted medical treatment.

13 **ON THE ELEVENTH CAUSE OF ACTION**

14 1. A judicial declaration that the City's vaccine mandate is not based upon substantial  
15 evidence, is arbitrary and capricious and is therefore improper and void.

16 2. An order restraining and enjoining Defendants from enforcing the void vaccine mandate.

17 **ON ALL CAUSES OF ACTION**

18 1. For judgment in favor of Plaintiffs;

19 2. For costs of suit herein; and

20 3. For such other and further relief as the Court may deem just and proper.

21 Respectfully Submitted,

22 Dated: January 3, 2022

23 By:

**JW HOWARD/ ATTORNEYS LTD.**

*/s/ John W. Howard*

24 JOHN W. HOWARD  
25 MICHELLE D. VOLK  
26 ANDREW G. NAGURNEY  
27 ALYSSA P. MALCHIODI  
28 Attorneys for Plaintiffs

# EXHIBIT “A”



## COVID-19 Vaccination Policy

Issued: 6/23/2021

Amended 8/6/2021

Amended 9/8/2021

**Amended 10/27/2021**

**10/27/2021 Revision:** *This revision updates the vaccination policy for city employees who are required to be fully vaccinated against COVID-19 by November 1, 2021. The revision does not apply to city employees who had an earlier deadline for vaccination (e.g., September 30 or October 13, 2021).*

*This revision modifies the policy to allow departments discretion to allow, as necessary for continuity of critical City operations, employees who can demonstrate that they have received at least their first dose of a COVID-19 vaccine regimen to continue work after November 1 subject to certain requirements and restrictions. All partially vaccinated employees must document that they are fully vaccinated by no later than December 6, 2021.*

### PURPOSE STATEMENT

The City and County of San Francisco (City) must provide a safe and healthy workplace, consistent with COVID-19 public health guidance and legal requirements, to protect its employees and the public as it reopens services and returns more employees to workplaces.

According to the federal Centers for Disease Control (CDC), the California Department of Public Health (CDPH), and the San Francisco County Health Officer, COVID-19 continues to pose a risk, especially to individuals who are not fully vaccinated, and certain safety measures remain necessary to protect against COVID-19 cases and deaths. Vaccination is the most effective way to prevent transmission and limit COVID-19 hospitalizations and deaths. Unvaccinated employees, interns, fellows, and volunteers are at greater risk of contracting and spreading COVID-19 within the workplace and City facilities, and to the public that depends on City services.

To best protect its employees and others in City facilities, and fulfill its obligations to the public, all employees must, as a condition of employment: (1) report their vaccination status to the City; and (2) be fully vaccinated and report that vaccination status to the City no later than either the applicable deadline under the San Francisco Health Order, if it applies, or 10 weeks after the Federal Food & Drug Administration (FDA) giving final approval to at least one COVID-19 vaccine (November 1, 2021).

### LEGAL REQUIREMENTS

On June 17, 2021, Governor Newsom issued Executive Order No. N-09-21, which implements new California Division of Occupational Safety and Health (Cal/OSHA) rules, effective June 17, 2021. These rules require employers to take specific measures to protect employees from COVID-19, including enforcing masking and quarantine requirements, and offering COVID-19 testing and time off, for employees who are unvaccinated or for whom the employer does not have documentation verifying

they are fully vaccinated. The Cal/OSHA rules require employers to verify and document that an employee is fully vaccinated before allowing that employee to discontinue masking indoors. For unvaccinated employees or employees for whom the City does not have documentation verifying fully vaccinated status, the City must enforce masking, provide COVID-19 testing following a close contact in the workplace or anytime they have COVID-19 symptoms, and exclude these employees from the workplace for 10 days after a close contact. Upon request, the City also must provide non-vaccinated employees with respirators (N95 masks) and provide education about using that type of mask.

On July 26, 2021 CDPH issued an Order ([CDPH Vaccination Status Order](#)) that workers in high-risk and other healthcare settings must report their vaccination status no later than August 23, 2021. The CDPH Vaccination Status Order also requires routine testing and more rigorous masking for unvaccinated or only partially vaccinated personnel working in these settings.

On August 24, 2021, the San Francisco Health Officer updated the [SF Health Order](#) requiring all employers to determine the vaccination status of employees who routinely work onsite in high-risk settings by no later than September 30, 2021 and precluding unvaccinated employees from entering those facilities after that date, and precluding unvaccinated employees who may occasionally or intermittently enter those settings from entering those facilities after October 13, 2021. This order further requires employees (among others) to remain masked in the workplace, effectively superseding the Cal/OSHA COVID-19 Temporary Emergency Standard which allows vaccinated employees who had documented that status to remove their masks.

On August 2, 2021 DHR issued a revised policy Face Coverings at Work Policy that can be found here: <https://sfdhr.org/sites/default/files/documents/COVID-19/Face-Covering-Requirements-at-Work.pdf>

On August 5, 2021, CDPH issued a new Order ([Health Care Worker Vaccine Requirement](#)) mandating all workers who provide services or work in identified health care facilities to receive their final dose of a vaccine regimen *no later than September 30, 2021*. The only exemptions to the Health Care Worker Vaccine Requirement are for workers who have a documented and [approved exemption](#) from vaccination on the basis of a sincerely-held religious belief or due to a qualifying medical condition or restriction.

## **STATEMENT OF POLICY**

### **Definition of “Employees” Under This Policy**

For purposes of this policy only, the term “employees” includes all full, part-time, and as-needed City employees regardless of appointment type, volunteers, interns, and City fellows (such as San Francisco Fellows, McCarthy Fellows, Fish Fellows, and Willie Brown Fellows).

### **Requirement to Report Vaccination Status**

To protect the City’s workforce and the public that it serves, all City employees were required to report their vaccination status to the City by July 29, 2021 (with a subsequent extension to August 12, 2021), by providing the following information:

- Whether the employee is vaccinated (yes or no)
- For employees who are vaccinated or partly vaccinated:

- The type of vaccine obtained (Moderna, Pfizer, or Johnson & Johnson, or other vaccine received in approved clinical trials)
- Date of first dose vaccine;
- Date of second vaccine for a 2-dose vaccine;
- Declaration under penalty of perjury that they have been fully vaccinated, and
- Upload documentation verifying proof of vaccination status. Proof of vaccination can include a copy of the CDC COVID-19 Vaccination Record Card, documentation of vaccine from the employee's healthcare provider, or documentation issued by the State of California by going to: <https://myvaccinerecord.cdph.ca.gov/>

To be fully vaccinated, 14 days must have passed since an employee received the final dose of a two-shot vaccine or a dose of a one-shot vaccine. All unvaccinated employees must continue to comply with masking, testing, and other safety requirements until they are fully vaccinated and have reported and documented that status to the City consistent with this Policy. Employees who previously reported that they were unvaccinated must update their status once they are fully vaccinated.

Failure to comply with the reporting requirement may result in discipline, or non-disciplinary separation from employment with the City for failure to meet the minimum qualifications of the job.

### **How to Report Vaccination Status**

Volunteers, interns, and City fellows must verify that they are fully vaccinated to the Departmental Personnel Officer or Human Resources professional by showing a copy of their CDC COVID-19 Vaccination Record Card, documentation from the individual's healthcare provider, or documentation issued by the State of California as described above. The department must retain documentation that the individual's vaccination status has been verified **but must not retain copies of the individual's vaccination record.**

All other employees must report their vaccination information and upload documentation verifying that status into the City's People & Pay system using the Employee Portal or by hand using the COVID-19 Vaccination Status Form. Only City employees authorized to access employee personnel information will have access to the medical portion of the file. The City will share information about an employee's vaccination status only on a need-to-know basis, including to the employee's department, managers, and supervisors for the purpose of enforcing masking, quarantining in the event of a close contact, and other safety requirements.

### **Vaccination Requirements for Employees**

1. To comply with the SF Health Order and ensure delivery of City services, City policy requires that all City employees routinely assigned to or working onsite in high-risk settings must receive their final dose of a vaccine regimen no later than September 30, 2021, unless they have been approved for an exemption from the vaccination requirement as a reasonable accommodation for a medical condition or restriction or sincerely held religious beliefs. Any employee who is requesting or has an approved exemption must still report their vaccination status to the City by the August 12, 2021 extended deadline. The vaccination and reporting requirements are conditions of City employment and a minimum qualification for employees who are routinely assigned to or working onsite in high-risk settings. Those employees who fail to meet the vaccination and reporting requirements under

this Policy will be unable to enter the facilities and unable to perform an essential function of their job, and therefore will not meet the minimum requirements to perform their job.

2. To comply with the CDPH Health Care Worker Requirement and ensure delivery of City services, City policy requires that all City employees who are not otherwise covered by the SF Health Order, but who provide services or work in the health care facilities identified in the state's order, must receive their final dose of a vaccine regimen no later than September 30, 2021, unless they have been approved for an exemption from the vaccination requirement as a reasonable accommodation for a medical condition or restriction or sincerely-held religious-beliefs. Any employee who is requesting or has an approved exemption must still report their vaccination status to the City by the August 12, 2021 extended deadline. The vaccination and reporting requirements are conditions of City employment and a minimum qualification for employees provide services or work in the health care facilities identified in the state's order. Those employees who fail to meet the vaccination and reporting requirements under this Policy will be unable to enter the facilities and unable to perform an essential function of their job, and therefore will not meet the minimum requirements to perform their job.

3. To comply with the SF Health Order and ensure delivery of City services, City policy requires that all City employees who in the course of their duties may enter or work in high-risk settings even on an intermittent or occasional basis or for short periods of time must be fully vaccinated — no later than October 13, 2021, unless they have been approved for an exemption from the vaccination requirement as a reasonable accommodation for a medical condition or restriction or sincerely-held religious beliefs. Any employee who is requesting or has an approved exemption must still report their vaccination status to the City by the August 12, 2021 extended deadline. The vaccination and reporting requirements are conditions of City employment and a minimum qualification for employees who in the course of their duties may enter or work in high-risk settings even on an intermittent or occasional basis or for short periods of time. Those employees who fail to meet the vaccination and reporting requirements under this Policy will be unable to enter the facilities and therefore unable to perform an essential function of their job and will not meet the minimum requirements to perform their job.

4. Volunteers, interns, and City fellows must be fully vaccinated – and must have reported that status and providing documentation verifying that status to the Departmental Human Resources personnel – as a condition of serving as a City volunteer, intern or fellow. Those already working and who do not fall under the SF Health Order must be fully vaccinated no later than October 13, 2021. Failure to comply with this policy will result in suspension of the internship, fellowship, or volunteer opportunity until such time as the individual provides verification that they are fully vaccinated.

5. All other City employees must be fully vaccinated as a condition of employment within ten weeks after the FDA provides final approval to at least one COVID-19 vaccine (November 1, 2021). Employees who are not fully vaccinated by November 1, 2021 may not enter the workplace after that date. To maintain continuity of City operations, limited exceptions may be allowed for employees who demonstrate that they are partially vaccinated.

### Office Environments

Departments have discretion, but are not required, to allow employees who work in office environments to work remotely provided the employees have received at least one dose of a COVID-19 vaccine regimen by November 1, 2021 and reported and documented that status to the City consistent with this Policy *and* the Department receives approval from the City Human Resources Director.

This is allowable for a maximum of up to three days (or 24 hours) per week. The remaining two days (or 16 hours), which are intended to be spent in person in the workplace, employees may use their accrued vacation or other non-sick leave time to cover those work hours that unvaccinated or partially vaccinated employees are restricted from the workplace due to not being fully vaccinated as required by City Policy. Employees who are partially vaccinated and have received written approval to work remotely after November 1, 2021 must report and document that they are fully vaccinated no later than **December 6, 2021**.

### Non-office Environments

Departments have discretion, but are not required, to allow employees to enter the workplace after November 1 provided the employees are required for continuity of operations within the departments, the employees have received at least one dose of a COVID-19 vaccine regimen by November 1, 2021, and the employees have reported and documented that status to the City consistent with this Policy. Employees who are permitted at the worksite after November 1, 2021 must report and document that they are fully vaccinated no later than **December 6, 2021**.

Employees who are not fully vaccinated against COVID-19 and who are permitted in the workplace after November 1, 2021 must continue to wear a well-fitted mask at all times while at the workplace. Departments are strongly encouraged to require employees who are not yet fully vaccinated after November 1, 2021 to test at least once weekly and provide proof of a negative COVID-19 test result until they are fully vaccinated and have reported and documented that status to the City consistent with this Policy.

Failure to comply with this Policy may result in a disciplinary action, or non-disciplinary separation from employment for failure to meet the minimum qualifications of the job.

### **Requesting an Exemption from the Vaccination Requirement**

Employees with a medical condition or other medical restriction that affects their eligibility for a vaccine, as verified by their medical provider, or those with a sincerely held religious belief that prohibits them from receiving a vaccine, may request a reasonable accommodation to be excused from this vaccination requirement but must still report their status by the August 12, 2021 extended deadline. The City will review requests for accommodation on a case-by-case basis and engage in an interactive process with employees who submit such requests. For some positions where fully vaccinated status is required to enter the facility where the employee works, an accommodation may require transfer to an alternate vacant position, if available, in another classification for which the employee meets the minimum qualifications. Requests for Reasonable Accommodation forms and procedures can be found here: <https://sfdhr.org/new-vaccine-and-face-covering-policy-city-employees>



## COVID-19 VACCINATION COMPLIANCE DEADLINES ADDENDUM TO VACCINATION POLICY AMENDED AUGUST 5, 2021

Below are the vaccination status reporting deadlines for City employees.

| COVID-19 VACCINATION STATUS REPORTING DEADLINES |   |
|---|---|
| <b>July 29, 2021</b>                            | Reporting Deadline                                    |
| <b>August 12, 2021</b>                          | Grace Period - Final day to report vaccination status |

Below are the vaccination deadlines for City employees. City employees working in high-risk settings are subject to non-disciplinary release if not vaccinated by the deadlines referenced below for failure to meet the minimum qualifications of their jobs.

| COVID-19 VACCINATION DEADLINES BY EMPLOYEE TYPE   |  |
|---|--|
| <b>Employees who are assigned to or routinely work onsite in High-Risk Settings or other Health Care Facilities</b> | <p>Must receive their final dose of a vaccine regimen <i>no later than September 30, 2021.</i></p> <ul style="list-style-type: none"> <li>• <b>Moderna:</b> First shot <i>no later than</i> September 2, 2021; Second shot <i>no later than</i> September 30, 2021.</li> <li>• <b>Pfizer:</b> First shot <i>no later than</i> September 9, 2021; Second shot <i>no later than</i> September 30, 2021.</li> <li>• <b>Johnson &amp; Johnson:</b> First shot <i>no later than</i> September 30, 2021</li> </ul>   |
| <b>Employees intermittently or occasionally working in "High-Risk Settings"</b>                                     | <p>Must be fully vaccinated <i>no later than October 13, 2021.</i></p> <ul style="list-style-type: none"> <li>• <b>Moderna:</b> First Shot <i>no later than</i> September 1, 2021;<br/>Second Shot <i>no later than</i> September 29, 2021</li> <li>• <b>Pfizer:</b> First Shot <i>no later than</i> September 8, 2021;<br/>Second Shot <i>no later than</i> September 29, 2021</li> <li>• <b>Johnson &amp; Johnson:</b> First Shot <i>no later than</i> September 29 2021</li> </ul>  |
| <b>All other employees not working in "High-Risk" or other health care settings</b>                                 | <p>Must be fully vaccinated <i>no later than November 1, 2021.</i></p> <ul style="list-style-type: none"> <li>• <b>Moderna:</b> First shot <i>no later than</i> September 20, 2021; Second shot <i>no later than</i> October 18, 2021.</li> <li>• <b>Pfizer:</b> First shot <i>no later than</i> September 27, 2021; Second shot <i>no later than</i> October 18, 2021.</li> </ul> <p><b>Johnson &amp; Johnson:</b> First shot <i>no later than</i> October 18, 2021.</p> <p>For continuity of City operations limited exceptions may be made for partially vaccinated employees. Such employees must report and document they are fully vaccinated no later than <b>December 6, 2021.</b></p> <p><i>Office environments:</i> Departments have discretion to allow employees to work remotely, if they are not fully vaccinated, but have received at least the first dose of a COVID-19 vaccine series. Written approval required</p> <p><i>Non-office environments:</i> Departments have discretion to allow employees at the worksite after November 1, 2021 if they are not fully vaccinated but have received at least the first dose of a COVID-19 vaccine series. Masking required.</p> |





## Booster Shots Required by February 1, 2022

Dear City employee:

In compliance with state and local orders, all City employees who are routinely assigned to or occasionally enter High-Risk Settings must receive a COVID-19 booster vaccine by February 1, 2022.

You are receiving this message because you may be required to comply with state and local health orders.

High-Risk Settings are defined as; general acute care hospitals, skilled nursing facilities, intermediate care facilities, residential care facilities for the elderly, homeless shelters, jails, dental offices, juvenile justice centers, and pharmacies.

Vaccination including a booster dose is a condition of City employment and a minimum qualification for employees who work onsite in High-Risk Settings.

1. Employees working in High-Risk Settings and eligible for a COVID-19 booster are required to receive a booster and report their booster vaccine status no later than February 1, 2022.

- If you received your second dose of a two-dose COVID-19 vaccine before July 1, 2021 and work in a High-Risk Setting you are required to receive a booster by February 1, 2022.
- If you received a single dose COVID-19 vaccine prior to November 1, 2021 and work in a High-Risk Setting you are required to receive a booster by February 1, 2022.

2. Employees working in high-risk settings who are not yet eligible for a COVID-19 booster are required to receive a booster within 15 days after becoming eligible. These employees must report their booster vaccine status within five (5) days of receiving a booster.

3. Beginning February 1, 2022, employees who are eligible for a booster but have not yet received one, must be tested once or twice a week (depending on their job) for COVID-19 and have a negative COVID-19 test

(depending on their job) for COVID-19 and have a negative COVID-19 test until one week after they received their booster.

4. Employees with an approved exemption from the vaccination requirement are not required to get a booster vaccine. Everyone is required to maintain stringent indoor masking requirements even with an approved exemption.

To schedule a booster vaccine appointment or find available walk-in centers, city employees can:

- Schedule an appointment with your primary care provider
- Visit: <https://sf.gov/get-vaccinated-against-covid-19>
- Visit: <https://www.vaccines.gov/>
- Text your ZIP code to 438829

Detailed instructions on how to upload booster vaccination status can be found at this link:

<https://sfemployeeportalsupport.sfgov.org/support/solutions/art>

Confirm Receipt