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22 and HEALTH FREEDOM DEFENSE
23 FUND

24 **UNITED STATES DISTRICT COURT**
25 **DISTRICT OF MARYLAND**

26 BENJAMIN COLLINS, BINGBING
27 YU, and HEALTH FREEDOM
28 DEFENSE FUND, a Wyoming non-
profit public benefit corporation,

Plaintiffs,

vs.

UR MENDOZA JADDOU, in her
official capacity as Director of U.S.
Citizenship and Immigration Services,
and MANDY COHEN, in her official
capacity as Director of the Centers for
Disease Control and Prevention,

Defendants.

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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1 Plaintiffs Benjamin Collins and his wife, Bingbing Yu (the “Individual Plaintiffs”),
2 and Health Freedom Defense Fund (“HFDF”) allege as follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. Mr. Collins is an American citizen who currently lives in Japan.

5 2. Ms. Yu is a citizen of China who currently lives in Japan.

6 3. HFDH is a not-for-profit public benefit Wyoming corporation with its
7 headquarters in Ketchum, Idaho. HFDF is a member-supported organization that seeks
8 to advocate for and educate the public on the topics of medical choice, bodily
9 autonomy, and self-determination, and that opposes laws and regulations that force
10 individuals to submit to the administration of medical products, procedures, and
11 devices against their will. HFDF’s supporters include people across the United States
12 who are directly affected by the subject actions of Defendants. They could have joined
13 this suit but have chosen to rely on HFDF to represent their interests in this case. The
14 interests at stake in this case fall within HFDF’s mission. Neither the claims asserted
15 by HFDF, nor the relief requested by it, require the individual participation of its
16 supporters.

17 4. Defendant Ur Mendoza Jaddou is the Director of U.S. Citizenship and
18 Immigration Services (“USCIS”). She is named in this complaint in her official
19 capacity.

20 5. Defendant Mandy Cohen is the Director of the Centers for Disease
21 Control and Prevention (“CDC”). She is named in this complaint in her official
22 capacity.

23 6. The Court has jurisdiction over this case under 5 U.S.C. § 702, 28 U.S.C.
24 § 1331 and 28 U.S.C. § 2201. Venue is proper under 28 U.S.C. § 1391(e) as
25 Defendant USCIS is located in Maryland.

26 **FACTUAL ALLEGATIONS**

27 7. In early 2020, health officials discovered a novel coronavirus that

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1 emanated from Wuhan, China. They named the disease caused by the virus “COVID-
2 19.”

3 8. The public health response to COVID-19 was unprecedented. It included
4 severe travel restrictions and the mass closures of businesses that health officials
5 deemed too dangerous to operate.

6 9. At the government’s urging, several experimental shots were developed
7 to help limit the effects of COVID-19. They were developed quickly to protect those
8 who are at highest risk of getting seriously ill from the virus, especially the elderly and
9 those with multiple comorbidities.

10 10. The companies that developed the first shots, Pfizer and Moderna,
11 acknowledged that the shots would not prevent people from becoming infected with
12 COVID-19. The Centers for Disease Control also eventually acknowledged that.

13 11. Indeed, during the fall of 2021, the Department of Health and Human
14 Services’ Centers for Medicare and Medicaid Services (CMS) stated in the Federal
15 Register that “the duration of vaccine effectiveness in preventing Covid-19, reducing
16 disease severity, reducing the risk of death, and the effectiveness of the vaccine to
17 prevent disease transmission by those vaccinated are not currently known.”

18 12. CMS also said that “major uncertainties remain as to the future course of
19 the pandemic, including but not limited to vaccine effectiveness in preventing
20 ‘breakthrough’ disease transmission from those vaccinated, [and] the long-term
21 effectiveness of vaccination” The CDC provided similar guidance during the
22 summer of 2021.

23 13. Despite these acknowledgements, the CDC added COVID-19 to the list
24 of “vaccine-preventable diseases” that people must show proof of vaccination against
25 to obtain lawful permanent residence here. It did so pursuant to 8 U.S.C. §
26 1182(a)(1)(A)(ii), which precludes entry to those who have “failed to present
27 documentation of having received vaccination against vaccine-preventable diseases,
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1 which shall include at least the following diseases: mumps, measles, rubella, polio,
2 tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any
3 other vaccinations against vaccine-preventable diseases recommended by the [CDC’s]
4 Advisory Committee for Immunization Practices.”

5 14. COVID-19 was added to this list of “vaccine-preventable diseases” as of
6 October 1, 2021. It is still on that list, even though, as common experience has shown,
7 the COVID-19 shots do not prevent a person from becoming infected with the virus
8 that causes COVID-19.

9 15. The evidence of this fact is overwhelming. Indeed, when the newest
10 COVID shots were rolled out in August 2024, FDA doctor Peter Marks said: “The
11 vaccine is not intended to be perfect. It’s not going to absolutely prevent COVID-19.
12 But if we can prevent people from getting serious cases that end up in emergency
13 rooms, hospitals or worse — dead — that’s what we’re trying to do with these
14 vaccines.”

15 16. Thus, as of 2024, this matter is beyond debate. COVID-19 is not a
16 vaccine-preventable disease.

17 17. Despite this fact, the CDC has not withdrawn its recommendation of
18 COVID-19 as being a “vaccine-preventable disease” that can be required for
19 immigration purposes. And the USCIS continues to deny relief to people who have
20 not taken the COVID-19 shots, including Ms. Yu.

21 18. Her husband, Mr. Collins, is an American citizen. In 2016, Ms. Yu
22 sought and obtained a green card. She did that while living in Japan, where the couple
23 met, as they intended to return to the United States to start a family.

24 19. In 2017, the couple’s first child was born, in Japan. By 2019, they were
25 still there, and Ms. Yu’s first green card had expired.

26 20. In 2019, the couple had their second child and started the process of
27 applying for a new green card.

1 21. In July 2023, Ms. Yu completed and was provisionally approved for a
2 second green card and appeared for an interview. The only remaining step was the
3 medical appointment.

4 22. Ms. Yu took the hepatitis-B vaccine before the appointment. Thus, she
5 had proof of vaccination for all diseases required by the USCIS and the CDC except
6 one: COVID-19.

7 23. Ms. Yu was denied lawful permanent residence based on her failure to
8 show proof of vaccination against COVID-19. That was the only reason given for the
9 decisions.

10 24. Ms. Yu was denied a green card in 2023. Since then, she has obtained a
11 tourist visa and can come to the United States with her family without having taken
12 the COVID-19 shot. But she cannot stay lawfully after the tourist visa expires and she
13 cannot obtain lawful permanent residence, which she otherwise would be entitled to, if
14 USCIS continues demanding proof of COVID-19 vaccination to obtain that status.

15 25. Thus, Plaintiffs bring this complaint for declaratory and injunctive relief
16 under the Administrative Procedures Act (“APA”) and the Declaratory Judgment Act.
17 They will seek preliminary injunctive relief to prohibit USCIS from continuing to
18 demand proof of COVID-19 vaccination for immigration purposes. That way, Ms. Yu
19 can submit a new application for lawful permanent residence which she will fully
20 qualify for.

21 26. The Individual Plaintiffs are joined in this complaint by HFDF, a non-
22 profit that advocates for bodily autonomy and medical freedom and which led the
23 successful effort to eliminate the FAA’s mask mandate for air travel. HFDF has
24 associational standing to pursue this relief too.

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FIRST CLAIM FOR RELIEF

(Declaratory Judgment and Injunctive Relief under

5 U.S.C. § 706 and 28 U.S.C. § 2201 against Jaddou/USCIS)

27. Plaintiffs incorporate paragraphs 1 through 26 of this complaint as though set forth fully herein.

28. The APA provides that “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702.

29. The APA also gives courts the power to “compel agency action unlawfully withheld” *Id.* § 706. And, of particular importance here, it gives a court the power to “issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.” *Id.* § 705.

30. The Declaratory Judgment Act supplements these provisions by allowing aggrieved parties to seek a judicial declaration, and binding judgment, about the proper interpretation of a law that the parties dispute.

31. Here, that law is 8 U.S.C. § 1182, which precludes relief to green card applicants who have not shown proof of “vaccination against vaccine-preventable diseases”

32. Ms. Yu has shown proof of vaccination against the diseases listed in the statute. She cannot show proof of vaccination against COVID-19, a disease that the CDC added to this list of “vaccine-preventable diseases” in 2021. The USCIS has used that failure, and that failure alone, to deny her application for lawful permanent residence before.

33. Plaintiffs contend that this action is unlawful. The COVID-19 shots do not prevent a person from becoming infected with the virus that causes COVID-19. That is a fact. Even CDC has acknowledged it. Thus, COVID-19 is not a “vaccine-

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1 preventable disease” and USCIS cannot deny Ms. Yu’s application for lawful
2 permanent residence based on their failure to show proof of vaccination against
3 COVID-19. That exceeds USCIS’ statutory authority.

4 34. This is not a discretionary matter. Section 1182 defines the “vaccine-
5 preventable diseases” for which proof of vaccination is required to obtain relief. The
6 statute then delegates discretion to the CDC to recommend “any other vaccinations for
7 vaccine-preventable diseases” to add to the list but that discretion cannot be exercised
8 except for a “vaccine-preventable” disease. Since COVID-19 is not a vaccine-
9 preventable disease, CDC does not have the discretion to add it to the list of required
10 immunizations and USCIS does not have the statutory authority to rely on lack of
11 COVID vaccination to deny lawful permanent residence to those like Ms. Yu who
12 otherwise qualify for it.

13 35. Plaintiffs seek a judicial declaration that USCIS cannot continue denying
14 applications for lawful permanent residence based on a person’s failure to show proof
15 of having taken the COVID-19 shots because COVID-19 is not a “vaccine-
16 preventable disease” for which proof of vaccination can be required under section
17 1182.

18 36. On information and belief, USCIS contends that COVID-19 is a
19 “vaccine-preventable disease” for which proof of vaccination can be required under
20 section 1182.

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

25 38. Plaintiffs also seek to recover their costs and attorneys’ fees under the
26 Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d) and 5 U.S.C. §§ 504 *et*
27 *seq.*, as Plaintiffs’ net worth does not exceed \$2 million, the government’s position is
28

1 not substantially justified, and there are no special circumstances that would render an
2 award unjust.

3 **SECOND CAUSE OF ACTION**

4 **(Declaratory Judgment and Injunctive Relief 5 U.S.C. § 706 and 28 U.S.C. § 220**
5 **against Cohen/CDC)**

6 39. Plaintiffs incorporate paragraphs 1 through 26 of this complaint as
7 though set forth fully herein.

8 40. Under the APA, a court must “hold unlawful and set aside agency action”
9 that is “arbitrary [or] capricious.” 5 U.S.C. § 706(2)(A).

10 41. It was arbitrary or capricious for CDC to add COVID-19 to the list of
11 “vaccine-preventable diseases” that require proof of immunization for immigration
12 purposes as there was no evidence that the shots prevented people from becoming
13 infected with COVID-19. Indeed, the companies that manufactured the shots did not
14 even design them to prevent infection. CDC acknowledged that. Thus, it is arbitrary
15 and capricious for CDC to continue insisting that people show proof of COVID-19
16 vaccination for immigration purposes. It is also arbitrary and capricious for CDC to
17 continue insisting that people who seek lawful permanent residence take the COVID-
18 19 shot when millions of tourists can visit America without doing so and when
19 millions of American citizens, as well as those who already have green cards, have
20 declined to take the shot.

21 42. An agency also “must examine the relevant data and articulate a
22 satisfactory explanation for its action, including a rational connection between the
23 facts found and the choice made.” *Encino Motorcars, LLC v. Navarro*, 136 S. Ct.
24 2117, 2125 (2016). The CDC failed to do that. It added COVID-19 to the list of
25 supposed “vaccine-preventable diseases” without examining the relevant data or
26 providing a good explanation for its decision. Instead, it bowed to political pressure
27 during the summer of 2021 to mandate the COVID-19 shots for as many people as
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1 possible. And it has buried its head in the sand since then by continuing to insist on
2 proof of COVID-19 vaccination for immigration purposes even though it has
3 acknowledged that COVID-19 is not a vaccine-preventable disease.

4 **PRAYER FOR RELIEF**

5 Wherefore, Plaintiffs pray for relief as follows.

6 1. For a judicial declaration that USCIS cannot continue denying applications
7 for lawful permanent residence based on the COVID-19 shot because COVID-19 is
8 not a “vaccine-preventable disease” for which proof of vaccination can be required
9 under section 1182.

10 2. For an injunction, and related declaratory relief, preventing USCIS from
11 denying future green card applications due to an individual’s failure to take the
12 COVID-19 shot.

13 3. For a judicial declaration that CDC cannot continue taking the position that
14 COVID-19 is a vaccine-preventable disease that USCIS should require proof of
15 immunization for in the immigration process.

16 4. For costs and attorneys’ fees under the EAJA.

17 5. For such other relief as the Court determines is just and proper.

18
19 DATED: November 18, 2024

**LAW OFFICES OF WARNER
MENDENHALL, INC.
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21 By: /s/Warner Mendenhall

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