No. 24-1015

IN THE

Supreme Court of the United States

JOHN DOES 1–2, *et al.*,
Petitioners,

v.

KATHY HOCHUL,
Governor of New York, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

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

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A MATTER OF GREAT PUBLIC IMPORTANCE

Coercively mandating dangerous and possibly fatal experimental drugs cannot be countenanced. This is about saving lives

Amici Curiae or "AFLDS" are the Free Speech Foundation, d/b/a America's Frontline Doctors, and Dr. Simone Gold, M.D., J.D., the founder and physician member with over twenty years' experience as an emergency room physician in minority communities around the nation.[1,2] *Amici Curiae* respectfully file this *amici curiae* brief in support of the Petitioners for reversal in *John Does 1-2, et al.*, *v. Kathy Hochul, Governor of New York, et al.*, No. 24-1015.

This *amici curiae* brief offers an important *medical and legal* perspective to this Court of great public importance, by conclusively demonstrating that the Respondents engaged in unconstitutional, illegal, and possibly criminal activity by "mandating" dangerous experimental medical treatments in violation of informed consent and the numerous clearly established laws and regulations enumerated herein.

These unconstitutional, illegal and irrational coercive mandates should be rejected.

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

[2] https://americasfrontlinedoctors.org/about-us

INTEREST OF *AMICI CURIAE*

Amici Curiae are a non-partisan, not-for-profit organization of thousands of member physicians from across the country, representing a range of medical disciplines and practical experience on the front lines of medicine, and its founder and expert physician and attorney member, Dr. Simone Gold, M.D., J.D.

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

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

Dr. Gold and AFLDS publicly supported the position, as early as October, 2020, that experimental mRNA injections are not "vaccines" *because they do not prevent infection or transmission, and they are neither "safe" nor "effective."*[3] They are personal

[3] https://aflds.org/about-us/press-releases/americas-frontline-doctors-

medical treatments only. This view is now known to be correct and highly relevant to this case, particularly in view of the egregious violation of Federal Rule of Evidence 201 by the courts below taking judicial notice of the false, and at minimum hotly disputed, "fact" that the experimental COVID-19 mRNA injections were "safe and effective." Overwhelming evidence confirms that this is categorically false, and is at minimum *"subject to reasonable dispute."*[4]

The proven lack of efficacy of experimental COVID-19 mRNA injections is an important point, as other rulings now on appeal, and which also relied upon the false assumption of efficacy, also found a "compelling" governmental interest in justifying a coercive medical mandate for a dangerous drug that does not protect other people.[5]

"Informed consent" must be fully **i**nformed, never coerced, nor subjected to undue influence, nor distorted by censored and incomplete information.

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supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate

[4] Fed. R. Evid. 201(b).

[5] *See Bridges v. Methodist Hospital*, 2024 WL 4354816 (S.D. Tex. Sept. 30, 2024), No. 23-cv-1699, Doc. 99, p. 16. ("Methodist implemented a mandatory COVID-19 immunization policy in an effort 'to do their business of saving lives' without spreading the COVID-19 virus and 'to keep staff, patients, and their families safer.' ... Those are legitimate interests, and the immunization policy is rationally related to them."); *Sweeney v. Univ. of Colorado Hosp. Auth.,* 2024 WL 3713835 (D. Colo. July 12, 2024), No. 23-cv-02451, Doc. 58, p. 27 (Concluding stemming the spread of COVID-19 is a compelling interest and mandating vaccination is rationally related to that interest.)

It is *Amici Curiae*'s position that decisions to illegally "mandate" a dangerous experimental medical treatments *which does not prevent infection or transmission*, *and which also has severe side effects, including death, which are undisclosed to the patient*, while simultaneously violating numerous civil and criminal laws, under the coercive threat of the loss of one's employment, are irrational and against public policy.

SUMMARY OF ARGUMENT

The lower courts improperly took judicial notice of a false, and at minimum, a hotly disputed "fact," that the experimental COVID-19 mRNA injections introduced in 2020 were "safe and effective," when overwhelming evidence says that they are not.[6] *This is a highly significant violation of national importance, of Fed. R. Evid. 201 governing judicial notice, which is limited to "a fact that is not subject to reasonable dispute*." This massive nationwide departure from judicial norms also implicates Supreme Court Rule 10(a), because the courts:

> Ha[ve] so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

Coercively mandating dangerous and possibly fatal experimental drugs, especially by improperly using the vehicle of judicial notice, cannot be countenanced. This is about saving lives. Any

[6] *See* Section B and accompanying footnotes.

decision to illegally "mandate" a dangerous experimental medical treatment which does *not* prevent infection or transmission, and which also has undisclosed severe side effects, including *death*, at unacceptable levels is completely irrational. Simultaneously violating numerous well-established civil and criminal laws via such "mandate," under the coercive threat of the loss of one's employment, is also completely irrational and against public policy. *See, e.g., Cooper v. Roswell Park Comprehensive Cancer Center*, 196 N.Y.S.3d 325, 332 (Sup. Ct. 2023), finding that an arbitrator's finding favoring a medical centers' decision to terminate a nurse because of her refusal to take a COVID-19 injection was "irrational."[7]

At minimum, this safety and efficacy issue *is vigorously disputed* on the national stage, and as such *is completely improper for judicial notice.*[8] At this juncture, any doubt should be resolved in favor of voluntary patient freedom of choice and against coercing unwanted and dangerous experimental medical treatments upon anyone. This is good public policy.

Further, there can be no debate that a mere administrative rule can never preempt Title VII of the Civil Rights Act of 1964, the First Amendment, or the Supremacy Clause of the Constitution itself. That is black letter law. The conflict between Circuits which do *not* follow this basic rule of law and the numerous Circuits which *do* follow it should be resolved by this Honorable Court.

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[7] *See also*, "33 nurses 'died suddenly' in the US this past week [No causes of death were listed]**,**" https://markcrispinmiller.substack.com/p/33-nurses-died-suddenly-in-the-us

[8] Fed. R. Evid. 201(b).

The rulings below should be reversed.

ARGUMENT

A. The lower courts improperly took judicial notice of a hotly disputed "fact" that these experimental COVID-19 mRNA injections were "safe and effective." This is a highly significant and nationally important violation of Fed. R. Evid. 201, the rule governing judicial notice, which implicates Supreme Court Rule 10(a), because the misapplication of Fed. R. Evid. 201 "has so far departed from the accepted and usual course of judicial proceedings ... as to call for an exercise of this Court's supervisory power."

It is now becoming widely known that the experimental mRNA injections introduced to treat COVID-19 are neither "safe," on account of their terrible safety profiles, nor "effective" because they do not stop transmission of the virus. *See* Section B and accompanying footnotes. Therefore, these experimental drugs *offer no protection for other people*. They are personal medical treatments only.

The courts below improperly took judicial notice of a false and vigorously disputed "fact" of safety and efficacy in finding a rational basis for the mandate ordering medical personnel to be injected with experimental vaccines, in direct violation of Fed. R. Evid. 201.[9] *It threatens the integrity of the entire*

[9] *See John Does 1-2, et al.*, v. *Kathy Hochul, Governor of New*

judicial system when courts take judicial notice of false and hotly disputed "facts." The courts below improperly embraced the one-sided viewpoint that "[i]t is the consensus of reliable public health authorities that the COVID-19 vaccine prevents the spread of the virus," and that the [COVID-19] "vaccines are highly effective."[10]

In response to the true facts of lack of safety and efficacy, government policies and recommendations have changed.

HHS Secretary Kennedy announced on May 27, 2025 that the COVID vaccine for healthy children and healthy pregnant women was removed from the CDC's recommended immunization schedule, changing previous CDC recommendations.[11]

Florida state Surgeon General Dr. Joseph A. Ladapo called for a complete halt in the use of COVID-19 mRNA "vaccines," citing contamination concerns.[12]

Louisiana health officials shifted away from the policy of promoting COVID-19 and flu vaccinations, citing concerns about the efficacy and safety of these

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York, et al., No. 24-1015, Appendix B (E.D.NY opinion) at 14a; Appendix A (2nd Cir. 2024 opinion) at 5a.

[10] *See John Does 1-2, et al.*, v. *Kathy Hochul, Governor of New York, et al.*, No. 24-1015, Appendix B (E.D.NY opinion) at 16a, 21a, and 50a.

[11] https://x.com/SecKennedy/status/1927368440811008138

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

vaccines.[13] The Louisiana Health Department stated that medicine is not "one size fits all." All patients are different, with different medical needs. Therefore, it is inappropriate and possibly medical malpractice to issue blanket medical treatment recommendations or requirements to broad categories of patients, without first assessing and examining each patient individually, and without diagnosing their unique medical conditions by a qualified medical professional.

Many bills have been introduced in state legislatures recently, including Iowa, Kentucky, Montana, Minnesota, Idaho and others, which seek to limit or ban entirely the administration of these experimental mRNA injections, or gene therapy, due to the terrible safety profiles of these experimental drugs.[14]

Many European countries, including Finland, Sweden, Denmark, the United Kingdom and Slovakia have taken similar actions in limiting or eliminating their previous blanket mRNA injection recommendations.[15,16]

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[13] "Citing concerns about the efficacy and safety of vaccines, state officials will instead encourage residents to consult their doctor about vaccination, Louisiana Department of Health spokesperson Emma Herrock said in a statement. 'In general, the department is shifting away from one-size-fits-all paternalistic guidance to a more informative approach aimed at enabling individuals, in consultation with their doctor, to make better decisions for themselves,' the statement said." "Louisiana health officials 'shifting away' from policy of promoting COVID, flu vaccinations." https://www.nola.com/news/politics/vaccine-louisiana-policy-covid-flu/article_3e0521bc-c096-11ef-bfd3-fb389

[14] *See, e.g.,* Iowa House File 712, Bill SF360; Kentucky House Bill 469; Montana House Bill 371; Idaho Senate Bill 1036; Minnesota HF 3152, HF 3219.

[15] "Finland joins Sweden and Denmark in limiting Moderna

Unfortunately, other courts have also embraced the now-disproved "safe and effective" narrative in upholding forced experimental mRNA injection mandates; several of these decisions are still on appeal.[17] This is the same trial court mistake corrected by the Ninth Circuit in *Health Freedom Defense Fund, Inc. v. Carvalho,* 104 F.4th 715 (9th Cir. 2024) a case which cannot be distinguished from the case here. Disputed and controversial issues are inappropriate for dismissal under Fed. R. Civ. P. 12(b)(6), and improper judicial notice should not be used to dismiss and silence inconvenient or controversial facts.

The rulings below failed to follow the lead of *Nat'l Fed'n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109 (2022), in which this Court stayed the OSHA nationwide employee vaccine mandate, and *Georgia v. President of the United States*, 46 F.4th 1283 (11th Cir. 2022), which upheld the nationwide injunction pausing the federal contractor vaccine mandate. *See*

COVID-19 vaccine," https://www.reuters.com/world/europe/finland-pauses-use-moderna-covid-19-vaccine-young-men-2021-10-07/

"England Refuses to Offer COVID Shots to Kids Under 12, While US Cities Mandate Them. Who's Right?": "... the UKHSA's decision puts England in line with several other European countries—including Sweden, Finland, Norway, and Denmark—that do not offer or recommend mRNA vaccines to healthy young children." https://fee.org/articles/england-refuses-to-offer-covid-shots-to-kids-under-12-while-us-cities-mandate-them-who-s-right/

[16] Michael Nevradakis, Ph.D. "Slovak Government Report Calls for Ban of 'Dangerous' mRNA Vaccines," *Science, Public Health Policy and the Law*. https://publichealthpolicyjournal.com/slovak-government-report-calls-for-ban-of-dangerous-mrna-vaccines/

[17] See, *e.g., Bridges* and *Sweeney, supra*, at n.5.

also Texas v. Becerra, 577 F.Supp.3d 527 (N.D.Tex. 2021) and 667 F.Supp.3d 252 (N.D.Tex. 2023) (HHS lacked authority to mandate any specific type of medical treatments, specifically a vaccine for Head Start staff, contractors and volunteers; court vacated the federal rule entirely.)

In *Medical Professionals for Informed Consent v Bassett*, 78 Misc. 3d 482 (Sup Ct. Jan. 13, 2023), the court granted a declaratory judgment to a group of doctors and nurses, holding that the hospital and "covered entities" vaccine mandate ordered by the New York State Department of Health (DOH) was null, void, and of no effect. The vaccine mandate was then dropped by DOH, and the appeal was declared moot.[18]

In all good conscience, how can anyone coercively "mandate" any drug that might kill a patient, without voluntary, coercion-free consent, and without being fully informed of the risks?

B. It is undisputed that the mandated experimental mRNA injectable drugs were never approved by the FDA, despite erroneous media reports to the contrary, and have shockingly high

[18] Regarding mootness, these issues are extremely likely to recur, yet are evading review. Threats of new pandemics are coming in from many quarters. Further, numerous anti-mandate cases like this one have flooded American courts. Many of these cases follow a predictable pattern: at the point plaintiffs start to win at trial or on appeal, the mandate is tactically dropped by the government agency. This is likely to continuously recur if not corrected now. *See* "New risks raise pandemic threat on a global scale," https://www.gpmb.org/news/news/item/14-10-2024-new-risks-raise-pandemic-threat-on-a-global-scale

> **fatality rates. The CDC's own reporting system has documented millions of adverse reactions and a tragic <u>38,615 fatalities</u> attributable to these experimental mRNA injections through April 25, 2025. Previously, a vaccine would have been pulled from the market after only a few deaths. Lives are at stake; this medical mandate is against public policy.**

The CDC's Vaccine Adverse Event Reporting System (VAERS) data show that as of April 25, 2025, there have been **38,615 deaths in America alone,** which thousands of medical professionals have independently attributed to fatal adverse reactions to the mandated experimental mRNA injections, a.k.a. "vaccines."[19] This cannot reasonably be considered "safe" or "effective." Additionally, VAERS recorded 220,701 hospitalizations, 156,638 urgent care visits, 247,657 doctor visits, 73,461 permanently disabled persons, 18,011 cases of Bell's Palsy, 5,185 miscarriages, 22,531 heart attacks, 29,150 Myocarditis/Pericarditis cases, and 11,253 cases of Anaphylaxis.

Thus the American *reported* death toll has now risen to an astonishing *38,615 deaths*. This shocks the conscience. Even if only a certain percentage of these COVID-19 mRNA injection adverse reaction reports are accurate, the death toll and the accompanying risks remain unacceptable. *How can anyone mandate anything that might kill you?*

High adverse reaction statistics obviously form a reasonable basis for some patients to avoid risky

[19] https://openvaers.com/covid-data

experimental mRNA injections in favor of safer alternatives, in the exercise of voluntary consent, free of coercion, and after the required full disclosure of these medical risks.

In stark contrast, in 1976, after only 32 deaths were attributable to the swine flu vaccine, the United States government halted the mass vaccination campaign.[20] The New York Times reported on October 13, 1976 that the swine flu program was halted in nine states after only three deaths were attributed to the vaccine shots.[21]

Amici Curiae have compiled an extensive database on the lack of safety and efficacy of the COVID-19 mRNA injections.[22]

At least five more recent and reliable medical studies further explode the "safe and effective" narrative.[23]

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[20] Art Moore. "CDC data signaling vaccine catastrope: It took only 32 deaths to halt 1976 shot campaign." *World Net Daily*, February 14, 2022. https://www.wnd.com/2022/02/cdc-data-signaling- vaccine-catastrophe/

[21] Harold M. Schmeck, Jr. "Swine flu program is halted in 9 states as 3 die after shots," *The New York Times*, October 13, 1976.

[22] *See* Covid Pedia | America's Frontline Doctors - Vaccine Safety. https://aflds.org/covid-pedia/vaccine-safety

[23] Five recent papers show vaccine COVID vaccine harms outweigh any benefits:

The Pfizer injection increases your all cause mortality by greater than 36%. Retsef Levi, *et al.* "Twelve-month all-cause mortality after initial COVID-19 vaccination with Pfizer-BioNTech or mRNA-1273 among adults living in Florida," https://doi.org/10.1101/2025.04.25. 25326460

Women who got the shot were 30 to 50 percent less likely to give birth, *see* Vibeke Manniche, *et al.* "Rates of successful conceptions according to COVID-19 vaccination status: Data

In dynamic testimony before Congress on May 21, 2025, followed by rousing applause, renowned expert cardiologist Dr. Peter A. McCullough, M.D. explained exactly why the experimental mRNA injections were neither safe nor effective, and were dangerous.[24]

Japanese researchers linked these experimental mRNA injection side effects to 201 types of diseases.[25] In another recent Japanese study, researchers found on autopsy multiple micro-scars in the hearts of mRNA-vaccinated patients who died

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from the Czech Republic." https://www.preprints.org/manuscript/202504.2487/v1?utm_source=substack&utm_medium=email

One paper shows a high correlation (.5, highly statistically significant) between vaccination and death. E.O. Okoro, *et al*. "Paradoxical increase in global COVID-19 deaths with vaccination coverage: World Health Organization estimates (2020–2023)." *International Journal of Risk & Safety in Medicine*. 2025;0(0). https://journals.sagepub.com/doi/10.1177/09246479251336610

There is a strong correlation between the uptake of the vaccine and excess all-cause mortality. *See* Raphael Lataster, Ph.D. "European excess mortality correlates with COVID-19 vaccination into 2024." *Bulgarian Medicine* 13:2 (2023). https://www.skirsch.com/covid/lataster.pdf

A vaccine dose fatality rate of 0.35% in Europe is greater than the infection fatality rate of 0.1% for COVID. *See* André Redert, Ph.D. "Causal effect of covid vaccination on mortality in Europe." February 2023. https://www.researchgate.net/publication/368777703_Causal_effect_of_covid_vaccination_on_mortality_in_Europe

[24] "TRUTH BOMB: Peter McCullough Doesn't Hold Back — 'IT WAS NOT SAFE BY DESIGN,'" https://x.com/ChildrensHD/status/1925355939369988144

[25] Lee Harding, "Japanese researchers say side effects of COVID vaccines linked to 201 types of diseases," *Western Standard*, January 15, 2024. https://www.westernstandard.news/news/japanese-researchers-say-side-effects-of-covid-vaccines-linked-to-201-types-of-diseases/51661

suddenly of unexplained cardiac arrest, thus raising the question of a link between the experimental mRNA injections and sudden cardiac arrest.[26]

Further, an alarming new Yale study shows that COVID vaccines may cause T-cell exhaustion, leading to an acquired immune deficiency. Could this be "...a vaccine that weakens immunity instead of strengthening it?"[27]

An authoritative new study examining the link between the COVID-19 vaccine and Myocarditis was just published this year. The study's conclusion: "*We urge governments to remove the COVID-19 mRNA products from the market due to the well-documented risk of myocardial damage."*[28]

Another recent study highlighted that Pfizer's post-marketing surveillance analysis showed a miscarriage rate of 81%, a 5-fold increase in stillbirths, an 8-fold increase in neonatal deaths, and a 13% incidence of breastfeeding complications in newborns whose mothers received the COVID shots:[29]

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[26] Tomomi Koizumi and Masao Ono, "Cardiac Multiple Micro-Scars: An Autopsy Study," *J Am Coll Cardiol Case Rep*. 30(5) 10383, March 2025. https://www.jacc.org/doi/10.1016/j.jaccas.2024.103083

[27] https://x.com/drsimonegold/status/1892626222250639592

[28] M. Nathaniel Mead, *et al.* "Myocarditis after SARS-CoV-2 infection and COVID-19 vaccination: Epidemiology, outcomes, and new perspectives," *Intl J Cardiovascular Rsch & Innovation*, 3(1) 1–43, Jan–Mar 2025. https://cardiovascular-research-and-innovation.reseaprojournals.com/Articles/myocarditis-after-sars-cov-2-infection-and-covid-19-vaccination-epidemiology-outcomes-and-new-perspectives)

[29] James A. Thorp, et al. "Are COVID-19 Vaccines in Pregnancy as Safe and Effective as the Medical Industrial Complex Claim? Part I," *Science, Public Health Policy and the Law*, 2/08/2025.

> Results: The CDC/FDA's safety signals were breached for all 37 AEs following COVID-19 vaccination in pregnancy including miscarriage, chromosomal abnormalities, fetal malformations, cervical insufficiency, fetal arrhythmia, hemorrhage in pregnancy, premature labor/delivery, preeclampsia, preterm rupture of membranes, placental abnormalities, fetal growth restriction, stillbirth, newborn asphyxia and newborn death. Conclusions: We found unacceptably high breaches in safety signals for 37 AEs after COVID-19 vaccination in pregnant women. *An immediate global moratorium on COVID-19 vaccination during pregnancy is warranted.* (emphasis added)

On May 27, 2025, HHS Secretary Kennedy announced that the COVID vaccine for healthy children and healthy pregnant women was removed from the CDC's recommended immunization schedule.[30]

Further, a massive new study released in March, 2025 found that among 1.7 million people, COVID-19 "vaccination" increased the risk of "Inner Ear Disorders by 237%, Menstrual Disorders by 216%, Glaucoma by 186%, and Endometriosis by 150%, along with many other negative side effects."[31]

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https://publichealthpolicyjournal.com/are-covid-19-vaccines-in-pregnancy-as-safe-and-effective-as-the-medical-industrial-complex-claim-part-i/

[30] HHS announces COVID-19 vaccine removed from CDC's recommended immunization schedule: https://x.com/SecKennedy/status/1927368440811008138

[31] Hong Jin Kim, et al. "Broad-Spectrum Adverse Events of

It is unconscionable to coercively mandate such a dangerous experimental drug which does not protect others.

Amici Curiae maintain, supported by voluminous scientific research, that early COVID-19 treatments with hydroxychloroquine ("HCQ") and Nobel prize-winning Ivermectin are quite safe and effective, contrary to the incessant government narratives against such treatment options.[32,33,34] These are

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Special Interests Based on Immune Response Following COVID-19 Vaccination: A Large-Scale Population-Based Cohort Study,"*J. Clin. Med.* 14(5) 1767, March 6, 2025. https://www.mdpi.com/2077-0383/14/5/1767

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

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

[34] As of February 13, 2025, a global, real-time meta-analysis includes 105 Ivermectin COVID-19 studies. The studies indicate Ivermectin reduces risk for COVID-19 with very high confidence for mortality, ventilation, ICU admission, hospitalization, recovery, cases and viral clearance. (No

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

Amici Curiae maintain, supported by voluminous scientific research, that experimental mRNA injections are neither "safe" nor "effective."

The mandated experimental injections were always only offered under emergency use authorization ("EUA"), and were never approved by the FDA.[35] For example, the controversial approval of "Comirnaty," a legally distinct drug from Pfizer BioNTech COVID-19 vaccine, with somewhat differing formulations, different manufacturing oversight, and differing adverse reactions, did not change the experimental EUA nature of the various COVID-19 gene therapy injections in use in the United States, still under EUA. Lower courts have erroneously concluded that Pfizer's COVID-19 injec-

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treatment, vaccine, or intervention is 100 percent effective and available.) Thus all practical, effective, and safe means should be used based on risk/benefit analysis. Over 20 countries adopted Ivermectin for COVID-19. Ivermectin may now be purchased over the counter in the states of Tennessee, Arkansas, and others. https://c19ivm.org/

[35] On August 23, 2021, the FDA approved a COVID-19 drug called "Comirnaty," with a long list of *required future safety studies*; however, Comirnaty was not in use in the United States. *On the same day,* the FDA extended the EUA for the experimental mRNA COVID-19 drugs which were actually in use in America. This created a great deal of confusion. It was erroneously reported that the mRNA injections actually in use had now been approved by the FDA. However, this was not true. The EUA for these experimental mRNA injections was only extended. Therefore, all of the laws and regulations applicable to experimental drugs discussed herein were still in full force and effect at the time of the mandate. *See* https://www.fda.gov/media/151710/download

tion was approved by the FDA,[36] but in fact, it was the Pfizer drug Comirnaty that was approved. The EUA for the COVID-19 vaccine was merely extended. Both actions were taken on the same day, August 23, 2021, causing much confusion. This finding alone— that the injections in use were FDA approved — is reversible error.

Recent studies have demonstrated differences between Comirnaty and the mandated EUA COVID-19 injections. The mandated EUA COVID-19 injections have been found to have higher rates of Myocarditis, which can be fatal.[37, 38] The approval of Comirnaty did not nullify the applicability of 21

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[36] *See John Does 1-2, et al.*, v. *Kathy Hochul, Governor of New York, et al.*, No. 24-1015, Appendix B (E.D.NY opinion) at 14a; Appendix A (2nd Cir. 2024 opinion) at 20a, 21a, and 39a.

[37] A paper authored by Luigi Cari and others shows that Spikevax-Moderna mRNA induces higher spike protein expression per dose than Comirnaty, and this higher dose correlates with increased myocarditis risk compared to Comirnaty. *See* Luigi Cari, et al. "Differences in the expression levels of SARS-CoV-2 Spike Protein in cells treated with mRNA-based COVID-19 vaccines: A study on vaccines from the real world." *Vaccines* (Basel) 11(4):879. Apr 21, 2023 https://pubmed.ncbi.nlm.nih.gov/37112792/

Jesús Hermosilla, *et al*. "Analysing the in-use stability of mRNA-LNP COVID-19 vaccines Comirnaty™ (Pfizer) and Spikevax™ (Moderna): A comparative study of the particulate." *Vaccines* (Basel) 11(11):1635. Oct 25, 2023. https://pubmed.ncbi.nlm.nih.gov/38005967/

Lizhou Zhang, *et al*. "Effect of mRNA-LNP components of two globally-marketed COVID-19 vaccines on efficacy and stability." *NPJ Vaccines* 8(1):156 (2023). https://pubmed.ncbi.nlm.nih.gov/ 37821446/

[38] Josh Guetzkow and Retsef Levi. "Effect of mRNA vaccine manufacturing processes on efficacy and safety still an open question" (letter to the Editor), BMJ 2022;378:o1731. July 12, 2022. https://www.bmj.com/content/378/bmj.o1731/rr-2

U.S.C. § 360bbb-3, the informed consent regulations, or the constitutional and statutory provisions.

Because Respondents mandated an experimental drug, the informed consent and full disclosure regulations were mandatory for both public and private Respondents. These detailed regulations mirror the Nuremberg Code. *See especially* 21 C.F.R. § 50.25(a)(1)–(8).

C. "Mandating" a dangerous experimental drug absent voluntary, coercion-free informed consent violates well-established constitutional principles, including the right to refuse medical treatment and of personal bodily integrity; violates civil and criminal federal and state laws prohibiting medical battery, negligent injuring, assault, and negligent homicide; and violates numerous federal regulations requiring voluntary informed consent and full disclosure, including 21 U.S.C. § 360bbb-3, 21 C.F.R. § 50.20, 21 C.F.R. § 50.25, 45 C.F.R. § 46.116, and the Nuremberg Code.

Respondents did not comply with well-established regulations governing informed and voluntary patient consent, free from coercion and undue influence, and with full disclosure of the risks. *See* 21 C.F.R. § 50.20, 21 C.F.R. § 50.25, and 45 C.F.R. § 46.116, entitled "Protection of Human Subjects," also known as the longstanding and well-established "Common Rule."[39]

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[39] https://www.hhs.gov/ohrp/regulations-and-policy/regulations/

These federal regulations are mandatory for both public and private actors, embody most of the Nuremberg principles, and apply to all experimental drugs issued under an EUA, pursuant to 21 U.S.C. § 360bbb-3.

The threat of job loss totally nullified voluntary employee/patient consent, free from threat and undue influence as required by 21 C.F.R. § 50.25(a)(8). No attempt was made to advise the employee/patients of the substantial known risks of these experimental drugs as required by 21 C.F.R. § 50.25(a)(2), (4), and (6).

Federal law, incorporating most of the Nuremberg Code, guarantees that experimental drugs must only be offered on a voluntary basis after full disclosure of risks, and with voluntary informed consent free from coercion. 21 U.S.C. § 360bbb-3, 21 C.F.R. § 50.20, 21 C.F.R. § 50.25, and 45 C.F.R. §46.116. Consent can never be coerced.

It is well-established that federal law mandates that the administration of experimental biological agents are strictly voluntary, requiring informed consent and after the full disclosure of risks.

Indeed, the Nuremberg Code, an international code of ethical principles adopted in the aftermath of war crimes committed by the German Nazis during WWII, was expressly intended to prohibit involuntary medical experimentation upon humans. See 21 C.F.R. § 50.20, 21 C.F.R. § 50.25, and 45 C.F.R. 46.[40] Respondents violated these mandatory federal regulations.

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common-rule/index.html

[40] https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html

The constitutional principles guaranteeing every individual the right to refuse medical treatment and the right of personal bodily integrity are similarly well-established, and were also ignored by the Respondent government actors. *See, e.g., Cruzan v. Dir., Mo. Dep't. of Health*, 497 U.S. 261 (1990), *Washington v. Harper*, 494 U.S. 210 (1990), *Schloendorff v Society of New York Hospital*, 211 N.Y. 125 (1914), and *Canterbury v. Spence*, 464 F.2d 772 (1972), *See also Doe #1 v. Rumsfeld*, 297 F. Supp. 2d 119, 134-35 (D.D.C. 2003) ("United States cannot demand that members of the armed forces also serve as *guinea pigs for experimental drugs"* (emphasis added)), *Downer v. Veilleux*, 322 A.2d 82 (Me. 1974), and *Cobbs v. Grant,* 8 Cal.3d 229 (1972).

In *Vacco v. Quill*, 521 U.S. 793 (1997), this Court stated, "*Everyone*, regardless of physical condition, is entitled, if competent, to refuse unwanted lifesaving medical treatment." (emphasis added).

Courts have consistently upheld a patient's well-established right to refuse unwanted medical treatments on constitutional grounds for decades. See *Mills v. Rogers*, 457 U.S. 291 (1982) *Guardianship of Roe*, 383 Mass. 415 (1981), *Riggins v. Nevada*, 504 U.S. 127 (1992), and *Sell v. United States*, 539 U.S. 166 (2003).

New York's criminal laws prohibiting assault, medical battery, and negligent homicide are implicated. Federal criminal laws prohibiting the violation of constitutional rights are implicated. *See* 18 U.S.C. § 241.

Preservation of the absolute right of voluntary, informed patient consent and medical freedom, free from coercion, and the constitutional right to refuse medical treatment are paramount considerations

here. These constitutional principles, and federal and state laws, are fully binding upon Respondents. The Respondents could not "mandate" *any* involuntary medical treatment for the Petitioner employees, even if the treatment wasn't experimental, and even if the refusal wasn't religious.

The trial courts in *Bridges* and *Sweeney*, *supra*, made the same mistake made in *United KP Freedom Alliance v. Kaiser Permanente,* No. 21-cv-07894-VC (N.D.Cal. Nov. 18, 2021), a mistake which was later corrected by the Ninth Circuit in *Health Freedom Defense Fund, Inc. v. Carvalho*, 104 F.4th 715 (9th Cir. 2024).

Amici Curiae supported the position, as early as October, 2020 and in *Kaiser Permanente, supra,* that experimental mRNA injections are not "vaccines," because they do not prevent infection or transmission, and are personal medical treatments only.

In a three-page opinion, the *Kaiser* trial judge erroneously accepted the false "narrative" that the experimental mRNA injections prevented infection and transmission. However, the Ninth Circuit correctly found in *Health Freedom Defense Fund* that the experimental mRNA injections were personal medical treatments only.

The Ninth Circuit distinguished *Jacobson v. Massachusetts*, 197 U.S. 11 (1905) in *Health Freedom Defense Fund*. Because plaintiffs had plausibly alleged that mRNA injections did not stop infection or transmission, the Ninth Circuit held that the "protection of the public" rationale of *Jacobson* was inapplicable. Thus, "forced medical treatment" for the patient's personal benefit only could not be justified by *Jacobson*. The Ninth Circuit held:

> *Jacobson* ... did not involve a claim in which the compelled vaccine was "designed to reduce symptoms in the infected vaccine recipient rather than to prevent transmission and infection." The district court thus erred in holding that *Jacobson* extends beyond its public health rationale—government's power to mandate prophylactic measures aimed at preventing the recipient from spreading disease to others—to also govern "forced medical treatment" for the recipient's benefit.
>
> At this stage, we must accept Plaintiffs' allegations that the vaccine does not prevent the spread of COVID-19 as true. [*Bell Atlantic v.*] *Twombly*, 550 U.S. at 556. And, because of this, *Jacobson* does not apply.

Health Freedom Defense Fund, Inc., 104 F.4th at 725 (internal citations omitted).[41]

The Ninth Circuit recognized that forcibly mandated personal medical treatments upon employee/patients could not be justified by the "protection of the public" rationale of *Jacobson* when the personal medical treatments did not afford protection for others. Respondents' mandate in this case violates this fundamental principle.

The dismissive opinion in *Kaiser* is now seen as clearly wrong, as it relied upon incorrect assumptions, just as the courts below did here. The

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[41] The Ninth Circuit intends to rehear this case *en banc*, however, *see Health Freedom Defense Fund, Inc. v. Carvalho*, 127 F.4th 750 (9th Cir. 2025), which highlights the importance of this Court's accepting the instant petition for *certiorari*.

supposed efficacy of the *Jacobson* smallpox vaccine doesn't apply to these experimental COVID-19 drugs, which do not prevent infection and transmission.

Health Freedom Defense Fund was decided on June 7, 2024. UCLA promptly changed its vaccination policy to permit religious exemptions effective June 26, 2024.[42]

Unfortunately, the lower courts in *Bridges* and *Sweeney,* still on appeal, made virtually the same mistake by relying upon the false "safe and effective" narrative as the trial judges made in *Kaiser Permanente* and in the instant case.

The Ninth Circuit in *Health Freedom Defense Fund* rejected this flawed trial court reasoning based upon these false "safe and effective" assumptions. This is true where no factual assumptions should be made by the trial court at all on a Rule 12(b)(6) motion, and especially through improper judicial notice. The flawed and medically dangerous reasoning of these trial courts should be rejected.

See also Happel v. Guilford Cnty. Bd. of Education, 913 S.E.2d 174 (N.C. 2025), in which the North Carolina Supreme Court rejected PREP Act immunity for constitutional violations involving these experimental mRNA gene therapy injections. *The tide is turning*.

It is undisputed that forced or coerced experimentation upon human beings against their will is reprehensible and should never be allowed by any court, as the lessons of Nuremberg and the Tuskegee experiment[43] teach. Fortunately, the many

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[42] See https://policy.ucop.edu/doc/5000695/VaccinationPrograms Policy

[43] https://www.history.com/news/the-infamous-40-year-tuskegee-

legal protections discussed above preclude the enforcement of an involuntary experimental medical mandate promoted by Respondents herein, which are against public policy.

CONCLUSION

Amici Curiae maintain, supported by voluminous scientific research, that these dangerous experimental mRNA injections neither stop infection nor transmission. They are personal medical treatments only. Therefore, *Jacobson* does not apply, and there is no compelling governmental interest in mandating or coercing them. Judicial notice of a false and disputed "safe and effective" narrative, with nationwide implications for other cases, is a dangerous mistake which must be corrected.

Further, Respondents clearly violated numerous well-established laws and the regulations enumerated hereinabove, thus depriving Respondents of qualified immunity from Petitioners 42 U.S.C. § 1983 and 42 U.S.C. § 1985 damages claims.

Finally, any decision to illegally "mandate," via administrative rule, a dangerous experimental personal medical treatment, under the coercive threat of the loss of one's employment, which (a) does not prevent infection or transmission, (b) has severe side effects including death, (c) is administered while the severe side effects are *not* disclosed to the employee/patients, (d) clearly violates the numerous well-established laws enumerated herein, and (e) attempts to preempt Title VII, the Free Exercise

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Clause, and the Supremacy Clause, is irrational and against public policy.

This harmfully mandated monstrous experiment is sadly analogous to the infamous Tuskegee experiment, and must never be allowed to be repeated.

The petition for *certiorari* should be granted and the ruling below should be reversed.

Respectfully submitted,

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