No. _____

In the
Supreme Court of the United States

JOY GARNER, individually and on behalf of
THE CONTROL GROUP, et al.,
Petitioners,

v.

JOSEPH R. BIDEN, JR., in his official capacity as
PRESIDENT OF THE UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Without a control group to establish a cause-and-effect relationship, 'science' is not science; it is guesswork. True science requires control groups.

Since the start of the National Vaccine Program (enforced by POTUS since 1962), chronic disorders have ballooned in vaccinated people only, while remaining relatively stable in the never-vaccinated population. Logically, the government should study a control group of never-vaccinated people (Petitioners) or at least not destroy their group. Instead, POTUS has directed and managed his subordinates to vaccinate every American, including the control group — the estimated 0.26% threatened group of healthy, never-vaccinated people. Regardless of intentions, and regardless of vaccine safety claims, the President is destroying evidence. He is destroying control groups' Fifth Amendment right to exist.

The government admits its mandatory vaccines remain unstudied with a never-vaccinated control group, such as Petitioners' group ("Control Group").

Petitioners' Control Group is necessary to prove any causation of harm. Government data confirm more than one-half of vaccinated Americans suffer lifelong debilitating chronic disorders (*i.e.,* heart disease, diabetes, autoimmune disorders). Yet, these disorders affect less than 6% of the never-vaccinated, according to evidence the Control Group introduced in the District Court. Petitioners allege this simple observation proves the President's mandatory vaccines harm most people. Conversely, for POTUS to continue claiming his vaccines are safe and effective still requires a genuine control group. Either way, the Judiciary is needed to preserve the evidence.

Petitioners requested declaratory and injunctive relief to safeguard their constitutional rights and the scientific method. The lower courts dismissed this case, citing a lack of standing to sue the President, without actually addressing any of the Control Group's scientific findings or even recognizing the standing nexus itself: POTUS and his subordinate agencies vigorously develop, approve, purchase, promote, administer, and mandate vaccines harming health.

Therefore:

Do the threatened members of the Control Group have standing to sue the President for systematically destroying their evidence and violating the panoply of their constitutional rights?

LIST OF PARTIES

In addition to the parties listed in the case caption, Petitioners also include:

Joy Elisse Garner, individually and as parent of J.S. and F.G.;
Evan Glasco, individually and as parent of F.G.;
Traci Music, individually and as parent of K.M. and J.S.;
Michael Harris, individually and as parent of S.H.;
Nicole Harris, individually and as parent of S.H.

RELATED CASES

Garner v. Biden, No. 2:20-cv-02470-WBS-JDP, 2021 U.S. Dist. LEXIS 33862 (E.D. Cal. Feb. 22, 2021)

Garner v. Biden, No. 21-15587, 2022 U.S. App. LEXIS 5223 (9th Cir. Feb. 28, 2022)

Garner v. United States Dist. Court for the E. Dist. of Cal. (*In re Garner*), No. 21-70925, 2021 U.S. App. LEXIS 14284, (9th Cir. May 13, 2021)

In re Garner, 142 S. Ct. 456 (2021).

CORPORATE DISCLOSURE STATEMENT

Petitioners have no corporate interests. Petitioners are not a publicly-held corporation or other publicly-held entity. No publicly-held corporation or entity owns any stock in Petitioners.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners Joy Garner and The Control Group, *et al*. respectfully petition this Court for a writ of certiorari to review the decision of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The opinion of the District Court for the Eastern District of California, dismissing this case with prejudice, is reported at *Garner v. Biden*, No. 2:20-cv-02470-WBS-JDP, 2021 U.S. Dist. LEXIS 33862 (E.D. Cal. Feb. 22, 2021) and reproduced at Appendix B. The decision of the United States Court of Appeals for the Ninth Circuit, upholding the dismissal, is reported at *Garner v. Biden*, No. 21-15587, 2022 U.S. App. LEXIS 5223 (9th Cir. Feb. 28, 2022) and reproduced at Appendix A.

JURISDICTION

The Court of Appeals entered its decision upholding dismissal with prejudice on February 28, 2022. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

Article II, § 1, Cl 8

> Before he enter on the Execution of His Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United

States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Article II, § 3

[H]e shall take Care that the Laws be faithfully executed...

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment

No person shall ... be deprived of life, liberty, or property, without due process of law ...

Eighth Amendment

[C]ruel and unusual punishments [shall not be] inflicted.

Ninth Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Tenth Amendment

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Thirteenth Amendment

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Fourteenth Amendment

> No State shall … deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

A. Expert-verified health survey of never-vaccinated Americans.

In the year 2020, a patriotic grandmother, Petitioner Joy Garner ("Garner") accomplished something unprecedented — a nationwide health survey of the estimated 0.26% never-vaccinated American population, resulting in a robust sample (1,482 Americans) from across 48 states, with 99% confidence in an interval with less than 0.04% variance for accuracy. App. C25; D.Ct. Dkt. 31-2 (Survey Report). The survey was conducted for purposes of this litigation.

In the sworn testimony of Control Group expert Tina Kimmel, PhD (former employee of California

Department of Public Health), Garner's statistical data are more robust than many CDC data points that set national policy:

> Petitioners' calculation methods are standard in this field of public health research, and I consider their pilot survey results to be highly reliable. While Petitioners may have intended to only conduct a "pilot" survey, the actual results are above 99% statistically reliable. Petitioners' results exceed the reliability of countless CDC-funded studies with lower population sizes that are used to set public health policy.

See D.Ct. Dkt. 16-3 at 6 (Dr. Kimmel Declaration).

Garner's methods and results were approved by six qualified experts who provided sworn declarations (three physicians, two PhDs, and one statistician). Garner's results agreed with every other known study of completely unvaccinated people, as every known study shows vaccination harms individual health, because the never-vaccinated are exponentially healthier than the vaccinated. App. C11, C19-20; D.Ct. Dkt. 16-6 at 9-14 (Dr. West Declaration).

Specifically, Garner's survey calculated the never-vaccinated are 1,242% healthier overall (12.4 times healthier), with 28 expert-verified scientific graphs in confirmation. D.Ct. Dkt. 16-7 at 19-39.

Garner's doctoral level team found it is mathematically impossible that vaccines are innocent. For example, one of the Control Group's graphs displays the astronomical odds that vaccines are not implicated in America's 60% chronic illness rate: 1 in 245,083,100,778,672,000,000,000,000,000,

000,000,000,000,000,000,000,000,000,000,000. App. C11.

Extraordinary scientific evidence like the above is cited abundantly in the pleadings. Another example: Garner found zero heart disease among the never-vaccinated. Yet, "[a]ccording to the American Heart Association, 48% of American adults suffer heart disease." App. C2. How is that possible?

Another example: Garner found zero diabetes among the 1,482 never-vaccinated Americans surveyed, even though the condition is present in 10% of vaccinated Americans. App. C3. Garner's experts found it mathematically impossible for these statistics to be random chance, *i.e.,* that it could somehow just be a fluke the never-vaccinated are exponentially healthier than the vaccinated in every single category.

Garner also confirmed that never-vaccinated people are a threatened group, given that approximately 99.74% of the American population has been exposed to vaccination at some level. App. C6.

Garner and her doctoral level scientific team also produced probably the most comprehensive compendium and analysis ever presented in a court of law of government data exposing the risk of vaccines:

- 442-page expert mathematics report using government data shows that for every vaccine on the CDC schedule, the risk of the vaccine is clearly higher than the risk of the disease. D.Ct. Dkt. 33-3.
- 4,414-page compendium of citations to exclusively mainstream sources, such as medical textbooks, high impact journals, and government publications, proving that (a) vaccines are the prime suspect in America's pandemic of immune-

mediated disorders, (b) vaccines are unavoidably dangerous, and (c) vaccines are sourced from foreign suppliers such as Communist China. D.Ct. Dkt. 4-2 through 4-4, and 5 through 14 ("PRJN1-3").[1]

- 60-page expert statistics report confirming (with two independent statistical methods) that Garner's survey data proved with above 99% confidence that vaccines are causing America's pandemic of chronic illness. D.Ct. Dkt. 31-1.
- 18 graphs compiled from government data evidencing that vaccines did not save America from disease historically. Rather, historical data confirm good engineering accomplished that goal through improved living conditions (i.e., decreased crowding in cities, improved plumbing, refrigerated food, advanced water filtration, solid waste disposal). D.Ct. Dkt. 15 at 36-47.
- 10 graphs of national data showing a .99-.90 ("very high correlation") between the rate of increase in the vaccine schedule and the rate of increase of immune-mediated illness in the general population. D.Ct. Dkt. 15 at 24-34.

Garner's expert team proved it is mathematically impossible that vaccines are *not* the cause of over 90% of the chronic health problems suffered by Americans today. Garner's team concluded the President's vaccine programs have caused, and continue to accelerate, this catastrophic public health crisis. App. C.

The rate of children with chronic illnesses doubles every 12 years, with no signs this trajectory has been altered, so Garner's experts concluded the

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[1] The 4,414 pages are compiled into three separate Petitioners' Request[s] for Judicial Notice, designated herein as PRJNs 1–3.

destruction of our population's health is imminent without immediate corrective action via control group science. D.Ct. Dkt. 16-4 at 11-12 (Dr. Hulstedt Declaration).

B. White House notified of crisis and destruction of evidence.

Petitioners (Garner and a representative group of her survey participants) duly served the White House and Department of Justice with approximately 5,000 pages of pre-litigation scientific materials in Autumn 2020. The Control Group requested the federal government confirm Garner's data and protect this extraordinarily healthy and threatened group of people. Petitioners received zero substantive response. After waiting patiently three months, the Control Group commenced this federal litigation in the Eastern District of California.

C. District Court litigation.

Petitioners' First Amended Verified Petition sought declaratory relief (to declare a chronic illness emergency) and a preliminary injunction (to uphold informed refusal of vaccines without punishment or coercion, thereby safe-guarding the scientific method). App. C.

The Control Group's standing was plainly stated in the complaint:

- "Subordinate Executive Agencies are vigorously involved in vaccine licensing, recommendation, promotion, and product sales. ... The President is the Chief Executive of the Subordinate Executive Agencies that are vigorously involved in the

Predicament.[2] State and their local health agencies adapt and require federally approved public health policies [] to be mandated (hereinafter "Govt. Mandates"). Govt. Mandates are the final expression of federally approved public health policies which together contribute to the Pandemic." App. C43-44.

- "Only Respondent as President of the United States of America and Commander in Chief of the Armed Forces (and this Court in respect of him) has the authority to protect Petitioners from the myriad and ever-shifting initiatives to vaccinate every individual in America as much as possible, which initiatives have stoked hatred and vilification of unvaccinated Americans. See [PRNJ2]. By promoting and supporting mass vaccination programs, including but not limited to the annual influenza vaccine program and Covid-19 vaccination, Respondent has emboldened Subordinate Executive Agencies to exacerbate the Predicament." App. C50.
- "As further evidence of the concrete and particularized injuries-in-fact that are both actual and imminent in this case, Petitioners have experienced aspects of the Predicament in the emergence of Covid-19 from China. As communist-style dictates continue to be employed throughout portions of the world, the United States has not remained unaffected. Mandatory vaccination is already being publicly supported by certain authorities within and

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[2] "Predicament" is the term assigned by Petitioners to the current milieu of unscientific assumptions, varying by jurisdiction, along with shifting legal coercion techniques, in which the President is challenged to take action to protect 'control groups' as a matter of national security. *See* App. C15-16 (¶19).

without the United States of America even though a Covid-19 vaccine has not even progressed through minimal safety and efficacy testing. Petitioners state this allegation not to target any particular State or local rule within the greater Predicament, but rather to evidence the Predicament includes the actual and imminent nature of the national security threats of a mandatory Covid-19 vaccination in response to the Chinese virus. Respondent has not abated these threats, but rather Respondent has emboldened them by actively promoting Covid-19 vaccination without providing the Suspension of vaccine mandates or similar order to safeguard the Nation from the loss of critical scientific evidence." App. C52.

- "There has never been an infectious disease that has debilitated, injured, or threatened this Nation's actual survival to the extent these immune system disorders currently do. See [PRJN2]. If this trajectory is not altered in short order, there will be very few productive Americans left to pay the taxes required to support any branch of government. Pharma, and the governmental bodies that protect, cultivate, and expand its powers, have now outgrown the host. If these health injuries continue to devour the American people at the present rates, this Nation will collapse." App. C57.

In the pleadings (including the PRJNs), the Control Group proved the central role of POTUS in nationwide mandatory vaccination. Specifically, POTUS is currently:

a) Designing and producing federally vaccines that are mandated (App. C18-19, C44-45; D.Ct. Dkt.

4-3 (PRJN2), p. 14, line 12 through p. 50, line 2; p. 88, lines 3-11; p. 90, lines 23-27; p. 93, lines 19-27; p. 97, line 8 through p. 98, line 3);

b) Classifying and approving federally vaccines that are mandated (App. C44-45, C62; D.Ct. Dkt. 4-3 (PRJN2), p. 98, line 4, through p. 99, line 6);
c) Producing federally the required vaccine information statement on vaccines that are mandated (App. C43-44);
d) Engaging federally in conflicts of interest regarding vaccines that are mandated (App. C12 (¶14), C53-54; D.Ct. Dkt. 4-3 (PRJN2), p. 68, line 17 through p. 70, line 22);
e) Purchasing federally vaccines that are mandated (App. C43-44; D.Ct. Dkt. 4-3 (PRJN2), p. 70, lines 17-22);
f) Importing federally from Communist China vaccines that are mandated (App. C25; D.Ct. Dkt. 4-4 (PRJN3), p. 10, lines 20-21; p. 17, lines 2-3; p. 23, lines 12-13; p. 28, lines 3-5; p. 29, lines 3-4; p. 45, lines 20-22);
g) Promoting federally vaccines that are mandated, and promoting federally the policy of mandates (App. C19, C43-44, C48-49; D.Ct. Dkt. 4-3 (PRJN2), p. 70, lines 17-22; p. 72, line 21 through p. 73, line 7; p. 74, line 14 through p.75, line 23);
h) Distributing federally vaccines that are mandated, to target and exterminate a control group of unvaccinated Americans (App. C43-44; D.Ct. Dkt. 4-3 (PRJN2), p. 72, line 21 through p. 73, line 7; p. 75, line 24 through p. 76, line 5);
i) Tracking federally vaccine injuries from mandated vaccines in order to make false and misleading safety claims to justify mandates (App. C6-7, C55, C65; D.Ct. Dkt. 4-2 (PRJN1)

(representing approximately 100 pages devoted to the nationwide crisis of immune-system injuries, proving the United States government funds and publishes studies of chronic illness to conceal vaccine injury as the number one cause of chronic illness); D.Ct. Dkt. 4-3 (PRJN2), p. 95, line 7 through p. 96, line 10; p. 99, line 16 through p. 100, line 2);

j) Designing federally a vaccine injury tracking system intended to fail and then falsely reporting federally vaccine injuries from mandated vaccines (App. C8-9, C12-14, C56, C65; D.Ct. Dkt. 4-3 (PRJN2), p. 59, line 18 through p. 63, line 20);
k) Studying federally uptake of mandated vaccines (App. C6-7, C43-44; D.Ct. Dkt. 4-3 (PRJN2), p. 80, lines 7-19; p. 100, line 3 through p. 101, line 11);
l) Failing federally to report to Congress on vaccine safety (App. C44 (¶52B); D.Ct. Dkt. 4-3 (PRJN2), p. 99, lines 7-15);
m) Litigating federally vaccine injury cases from mandated vaccines (App. C22-24);
n) Concealing federally that the primary cause of the national health crisis is mandated vaccines (App. C8);
o) Setting regulations federally for interstate infectious disease control regarding mandated vaccines (App. C43-44);
p) Funding federally health departments to enforce vaccine mandates across the Nation (App. C41 (¶49B), C43-44, C73, C86-87; D.Ct. Dkt. 4-3 (PRJN2), p. 82, lines 1-9);
q) Enforcing vaccine mandates on Federal properties and for Federally funded activities (App. C41, C43-44; D.Ct. Dkt. 4-2 (PRJN1), p.

> 11, lines 8-10; D.Ct. Dkt. 4-3 (PRJN2), p. 76, lines 8-18).

Meticulously vetted by qualified scientists, the Control Group filed this unique case naming POTUS Donald J. Trump, with the utmost respect, as Defendant. The allegations were more cooperative than accusatory, as this case is not about blaming the President, but rather cooperatively solving a scientific problem that requires the Constitution. For example, the Control Group alleged, "Respondent's oversight (in the contronymical sense of the word, hereafter 'Oversight') to protect Petitioners as unvaccinated Americans is the actual and proximate cause of Petitioners' present and imminent injuries as well as Petitioners' requested remedy as alleged herein." App. C51.

The Control Group concurrently filed and incorporated by reference their requests for judicial notice, establishing the national health crisis is caused by dangerous vaccines managed by POTUS and sourced primarily from Communist China. App. C8-9, C17, C24; D.Ct. Dkt. 4-2 through 4-4 and 5 through 14. The Control Group also cited expert declarations filed in support of their Motion for Preliminary Injunction. App. C19; D.Ct. Dkt. 16-17.

In the words of Control Group expert pediatrician LeTrinh Hoang, DO:

> The public interest requires good science to survey the health of the unvaccinated to save this Nation's life ... I love this Nation and I want to see us thrive. I was born in Vietnam and fled from communism. I am a naturalized citizen, and a proud American.

D.Ct. Dkt. 17 (Dr. Hoang Declaration).

On January 29, 2021, Respondent filed a request for continuance of the above referenced motions, claiming Respondent needed more time to file a motion to dismiss. D.Ct. Dkt. 24. The Control Group opposed the motion by highlighting the transparent reality that Respondent's counsel was hoping District Court Judge Shubb (who later recused himself after the Control Group highlighted he owned approximately $500,000 in vaccine manufacturer stock), would take the easy road to 'lump all three motions together' and then simply dismiss the action outright (which is indeed what happened) rather than actually review and thoughtfully rule upon the requests for judicial notice. D.Ct. Dkt. 25 (Opposition to Continuance).

At the hearing on such motion, Judge Shubb set an accelerated briefing schedule (giving the Control Group only two business days) to file an opposition to the motion to dismiss, on a Federal Court holiday. D.Ct. Dkt. 27 (minutes for proceedings).

In his motion to dismiss, POTUS conceded: "A facial motion to dismiss, such as this one, assumes the truth of the well-pled facts in the complaint." D.Ct. Dkt. 28-1 at 10.

The District Court granted the motion to dismiss with prejudice, albeit stating it took all allegations as true for purposes of the motion. App. B4.

Although the complaint stated the President is "vigorously involved" in government mandates that only the President can remedy nationwide to save America (App. C43-44), the District Court misquoted the complaint out of context, claiming, "The first amended complaint contains no allegation that any department or agency of the federal government, much less the President, is responsible for any of their alleged injuries" and "plaintiffs even note that

there is no mandatory vaccine federal requirement." App. B5.

The District Court also mischaracterized the complaint by stating, "there are no allegations in the first amended complaint to support even an inference that the injuries plaintiffs complain of are traceable to any act or omission of the President" and "the court cannot envision how anything it could constitutionally order the President to do in this action would remediate any of plaintiffs' alleged injuries." App. B6-7.

This encapsulates the issue: the District Court admitted it "cannot envision" declaring the Control Group's basic rights and enjoining POTUS in the National Vaccine Program.[3]

The district court reasoned it was powerless under Article III to declare mandatory vaccination unlawful and cited the case *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020) (where plaintiffs requested and were denied decades of unlimited and vague judicial supervision over "climate change").

However, the Control Group here requested only a single focused court order upholding their constitutional rights, in line with super precedent *Brown v. Board of Education of Topeka*, 347 U.S. 483, 495 (1954) (first declaring nationwide 'separate is not equal', then in the years afterwards fashioning injunctive relief).

Petitions for writ of mandamus to the Ninth Circuit and United States Supreme Court were summarily denied without comment. *Garner v. United States Dist. Court for the E. Dist. of Cal.* (In re Garner), No. 21-70925, 2021 U.S. App. LEXIS 14284

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[3] "National Vaccine Program" refers to the administration of the collection of federal laws, regulations, executive orders, etc. concerning vaccines and vaccination from 1962 to date.

(9th Cir. May 13, 2021); *In re Garner,* 142 S. Ct. 456 (2021).

The Control Group concurrently appealed the District Court's dismissal to the Ninth Circuit.

D. Ninth Circuit appeal.

1. Motion to appear as unvaccinated lawyer.

In the Autumn of 2021, the Ninth Circuit requested dates for counsel to provide oral argument in person. The Ninth Circuit requires Covid-19 vaccination before lawyers can enter the building, so undersigned counsel (an unvaccinated lawyer) made a motion to allow attendance in person rather than by video. 9th Cir. Dkt. 25. The Ninth Circuit promptly withdrew its request for oral argument and denied counsel's motion as moot. 9th Cir. Dkt. 32.

2. Two Judges recuse themselves.

Upon reading Chief Justice Roberts' year-end report referring to financial conflicts in the judiciary,[4] Petitioners filed two motions to recuse affected judges owning vaccine manufacturer stock:

(1) Motion to Vacate Order and Judgment of Dismissal, and for Disqualification of Judge Shubb. D.Ct. Dkt. 48.

(2) Motion to Disqualify Circuit Judge Kim McLane Wardlaw. 9th Cir. Dkt. 35-1.

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[4] Chief Justice Roberts, *2021 Year-End Report on the Federal Judiciary* (December 31, 2021), https://www.supremecourt.gov/publicinfo/year-end/2021year-endreport.pdf.

Ninth Circuit Judge Wardlaw recused herself immediately. 9th Cir. Dkt. 36; *Garner v. Biden*, No. 21-15587, 2022 U.S. App. LEXIS 3255 (9th Cir. Feb. 4, 2022).

District Court Judge Shubb did the same and also vacated all his previous orders, "the undersigned judge [Shubb] hereby RECUSES himself from all proceedings in this case nunc pro tunc, and the Judgment and all orders entered by the undersigned judge in this action are hereby VACATED and SET ASIDE." D.Ct. Dkt. 50.

3. Ninth Circuit opinion.

Over Petitioners' objection, the Ninth Circuit rejected Judge Shubb's recusal in a footnote: "The [district] court's order had no effect, however, because it was issued after Appellants filed their notice of appeal in our court." App. A2.

Then, in a very short and unpublished opinion, the appellate court upheld the dismissal by restating the same conclusions (re standing) in the district court order. App. A.

REASONS FOR GRANTING THE WRIT

A. The Question Presented is vitally important, and mandatory vaccination is recurring.

Meticulously cited with government data, Petitioners clearly alleged the President's vaccines are destroying the health and security of our nation. App. C. Science can help get our country back on track, but first, to do real science we need the

Constitution to protect control groups' very right to exist. We need Article III.

1. Truth.

This case vindicates a great truth: science needs healthy natural people to exist in order to do control group studies. It should ever be the province of the Judiciary in cases and controversies to uphold that which is true, and strike down that which is false. *See* Kenneth S. Klein, *Truth and Legitimacy (In Courts)*, 48 Loy. U. Chi. L.J. 1 (2016).

Cited by this Court and other courts all over the world, the legal maxim *suppressio veri* is that 'suppression of truth is an offense.' It is indeed *suppressio veri* for the government to destroy control group evidence.

2. Vaccine mandates threaten Control Group's right to exist.

From their reasonable perspective, the Control Group participants are natural people created by God, but hunted by man.

Prior to launching his newest vaccine mandates targeting the Control Group and others similarly situated (*i.e.*, the partially vaccinated), POTUS stated publicly on September 9, 2021 regarding the unvaccinated, "our patience is wearing thin, and your refusal has cost all of us."[5]

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[5] *Biden to the unvaccinated: 'Our patience is wearing thin'*, CNN POLITICS (Sept. 9, 2021), https://www.cnn.com/videos/politics/2021/09/09/biden-message-unvaccinated-americans-patience-sot-lead-vpx.cnn.

As control groups of never-vaccinated Americans are being destroyed by the President's actions, science will be dead on arrival soon, unless SCOTUS issues a preservation of evidence order in this case. The availability of zero control groups jeopardizes our Nation in the increasingly scientific world of 2022, regardless of what is being studied. Clean air, clean water, natural humans — all of these are necessary for control group science, which is why control group science is meaningful beyond measure.

This case can provide vital precedential value for respecting control groups of natural humans on the verge of extinction. See *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 566 (1992) (regarding standing, "It is clear that the person who observes or works with a particular animal threatened by a federal decision is facing perceptible harm, since the very subject of his interest will no longer exist.")

The right to exist is found in multiple areas of constitutional law. *See, e.g., Yarbray v. Southern Bell Tel. & Tel. Co.*, 261 Ga. 703, 409 S.E.2d 835, 836 (1991) ("The right of privacy is embraced within the absolute rights of personal security and personal liberty. Personal security includes the right to exist and the right to the enjoyment of life while existing. ... Personal liberty includes not only freedom from physical restraint, but also the right 'to be let alone.'")

The Fifth Amendment states the right to exist: "No person shall be ... deprived of life, liberty, or property, without due process of law."

Control Group participants are law-abiding natural citizens and have never forfeited their right to exist. *See, e.g., People v. Earp*, 20 Cal.4th 826, 895 (1999) ("once a defendant is convicted of a crime carrying the death penalty, he or she necessarily forfeits the right 'to exist'"); Department of Defense,

Law of War Manual, § 4.8.2 (2016) ("Civilians may not be made the object of attack, unless they take direct part in hostilities.")

Whereas "corporations [] derive their right to exist from the State," *German All. Ins. Co. v. Lewis*, 233 U.S. 389, 404 (1914), individuals receive their right to exist from God. *See, e.g., Declaration of Independence* (July 4, 1776), 1 Stat. 1 ("We hold these truths to be self-evident, that all men are ... endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty, and the pursuit of Happiness"); *Clinton v. Jones*, 520 U.S. 681, 687 n.6 (1997) (upholding a private citizen's standing to sue the President and quoting respectfully the District Court Judge, "even the sovereign is subject to God"); *Open Door Baptist Church v. Clark County*, 140 Wash. 2d 143, 186 (2000) (invalidating zoning ordinance because "Church officials must plead to secular authority for their very right to exist — an overreach by the State that we have previously held – in a more benign manifestation — to be oppressive."); *Norwood v. Harrison*, 413 U.S. 455, 462 (1973) ("In Pierce, the Court affirmed the right of private schools to exist")[6]; *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 400 (1819) ("This is the highest attribute of sovereignty, the right to raise revenue; in fact, the right to exist; without which no other right can be held or enjoyed.").

SCOTUS' intervention is uniquely necessary here because this Court shepherds the tool that protects control groups of natural people: our Constitution. There is no better tool. Nor is there a safety net beyond the Constitution that will ensure control groups can exist.

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[6] Referring to *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

Petitioners submit the instant control group litigation is an excellent choice for SCOTUS to invoke the "rarely" statement in *Allen v. Wright*, 468 U.S. 737 (1984):

> The idea of separation of powers that underlies standing doctrine explains why our cases preclude … suits challenging, not specifically identifiable Government violations of law, but the particular programs agencies establish to carry out their legal obligations. Such suits, even when premised on allegations of several instances of violations of law, are *rarely* if ever appropriate for federal-court adjudication.

Id. at 759-60 [emphasis added].

If this Court fails to invoke this "rarely" statement, control groups can go extinct for political reasons, which is antithetical to the idea that certain absolute rights (*i.e.,* to exist) are beyond political compromises.

3. Of fundamental social significance.

For 60 years straight (National Vaccine Program), the Office of the President has vaccinated the whole herd, pushing vaccination without the benefit of genuine control groups. App. C.

And now the genuine control group in America is threatened at 0.26% of the population. App. C. So, do these 0.26% never-vaccinated Control Group participants have standing to respectfully sue POTUS, to protect their constitutional rights to exist as peacefully natural people? Yes, and the question is important.

The most accurate statement about a genuine control group is also the most succinct: "The control group receives nothing." *In re Bayer Phillips Colon Health Probiotics Sales Practices Litig*., Civil Action No. 11-03017, 2017 U.S. Dist. LEXIS 58651, at *6 n.4 (D.N.J. Apr. 17, 2017, unpublished).

As catalogued in the Control Group's requests for judicial notice (D.Ct. Dkt. 4-3), POTUS has disregarded this basic concept, as every vaccine on his CDC schedule is approved using false 'control groups' — false because they deviously include partially vaccinated people only. The government admits (D.Ct. Dkt. 4-3 §§8, 13-15) that its mandatory vaccines remain unstudied with a fully unvaccinated control group, such as Petitioners' group.

Courts have recognized that the scientific method requires a control group in order to determine the baseline frequency of a disease. *See, e.g., In re Fosamax Prods. Liab. Litig*., 645 F. Supp. 2d 164, 185 (S.D.N.Y. 2009). Indeed, the lack of a genuine control group is a topic that comes up often in vaccine injury claims court. *See, e.g., Hazlehurst v. Sec'y of the HHS*, No. 03-654V, 2009 U.S. Claims LEXIS 183, at *387 (Fed. Cl. Feb. 12, 2009) ("By design, the control group has to be similar to the experimental group but has to differ by the variable of interest.").

History has repeatedly shown vaccine science disregarding the scientific method in favor of corporate excuses for not performing genuine control group studies. See D.Ct. Dkt. 4-3 (PRJN2).

An established scientific paradigm changes when (a) independent science presents new compelling data in conflict with the existing paradigm, and (b) a

reasonable alternative is offered to solve a real-world problem.[7] Both are present here.

We are witnessing today a scientific revolution in the vaccine paradigm. The new data prove it is already happening. The respected field of integrative medicine (including Petitioners' experts) are offering the reasonable solution by achieving superior health outcomes among the never vaccinated, whose immune systems remain resilient. D.Ct. Dkt. 16-2 through 16-6, D.Ct. Dkt. 17.

4. Of fundamental legal significance

Undersigned counsel found precisely zero cases referencing the word contronym. Here, the Control Group structures this case upon both meanings of a contronym:

> Respondent's oversight (in the contronymical sense of the word, hereafter 'Oversight') to protect Petitioners as unvaccinated Americans is the actual and proximate cause of Petitioners' present and imminent injuries as well as Petitioners' requested remedy as alleged herein.

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[7] *See, e.g.*, Kuhn, T., *The Structure of Scientific Revolutions* (4th ed. 2012), p. 122 ("Paradigms are not corrigible by normal science at all. Instead, as we have already seen, normal science ultimately leads only to the recognition of anomalies and to crises. And these are terminated, not by deliberation and interpretation, but by a relatively sudden and unstructured event like the gestalt switch. Scientists then often speak of the 'scales falling from the eyes' or the 'lightning flash' that 'inundates' a previously obscure puzzle, enabling its components to be seen in a new way that for the first time permits its solution.")

App. C, 48a.

So this case is also well positioned on the unique question whether a contronym, as alleged herein, may suffice for the second and third elements for standing under *Ne. Fla. Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656 (1993):

> It has been established by a long line of cases that a party seeking to invoke a federal court's jurisdiction must demonstrate three things: (1) "injury in fact," by which we mean an invasion of a legally protected interest that is "(a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical," *Lujan, supra*, at 560 (citations, footnote, and internal quotation marks omitted); (2) a causal relationship between the injury and the challenged conduct, by which we mean that the injury "fairly can be traced to the challenged action of the defendant," and has not resulted "from the independent action of some third party not before the court," *Simon v. Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26, 41-42, 48 L. Ed. 2d 450, 96 S. Ct. 1917 (1976); and (3) a likelihood that the injury will be redressed by a favorable decision, by which we mean that the "prospect of obtaining relief from the injury as a result of a favorable ruling" is not "too speculative," *Allen v. Wright, supra*, at 752. These elements are the "irreducible minimum," *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472, 70 L. Ed. 2d 700, 102 S. Ct. 752 (1982), required by the Constitution.

Id. at 663-64.

This Control Group case is uniquely significant because (although causation is alleged) the focus was admittedly never blaming President Trump, but rather the focus is redressability: the President is uniquely situated to *redress* the Constitutional violations.

A strong showing of redressability should be allowed to bolster a lesser showing of causation, provided both are present, especially because the standard for causation is simply that the injury is "fairly traceable." *Allen*, 468 U.S. at 751.

Petitioners' never-vaccinated control group study comparison would not even exist but for POTUS' National Vaccine Program. The reason is obvious — without a vaccinated group, there is nothing with which to compare an unvaccinated group.

To only point the finger is to miss the point. Petitioners will admit (short of a retraxit) they do not want to blame the President, or blame themselves, or blame anyone. The Control Group just wants to exist, and do so in a country that also exists.

Given the President's special role to enforce the Constitution and maintain the Republic, it is fitting that he be the named Defendant for this unique case regarding the right to exist.

5. Lower court decision impedes effectiveness of constitutional litigation.

If scientifically vetted cases can be dismissed quickly on standing grounds, then constitutional litigation is unable to effect checks and balances on vaccines. Quick dismissals without discovery are particularly dangerous because the federal National Vaccine Injury Compensation Act already prevents

litigants from suing vaccine manufacturers. *Bruesewitz v. Wyeth LLC*, 562 U.S. 223 (2011). So constitutional litigation is the only practical check and balance remaining in our legal system.

Indeed, given the pervasive conflicts of interest, it is no recourse that agencies like the CDC and FDA are tasked with regulating Big Pharma. D.Ct. Dkt. 4-3 (known conflicts in requests for judicial notice).

6. National in scope.

A control group is a unique plaintiff because it spans multiple jurisdictions and is constantly moving. The instant control group is nationwide (spanning 48 states). There is not a single agency Petitioners can sue to protect the Control Group's right to exist. Of all the roads that lead to the Control Group's destruction, the source is POTUS with his National Vaccine Program.

Consider this Court's wisdom in *Valley Forge Christian College v. Americans United for Separation of Church & State*, 454 U.S. 464, 474 (1982):

> Proper regard for the complex nature of our constitutional structure requires neither that the Judicial Branch shrink from a confrontation with the other two coequal branches of the Federal Government, nor that it hospitably accept for adjudication claims of constitutional violation by other branches of government where the claimant has not suffered cognizable injury.

In America today, unvaccinated persons are being segregated from vaccinated persons. In 12% of the States, only the fully vaccinated children can attend public and private school, as partially and

unvaccinated children are forced to homeschool. D.Ct. Dkt. 4-3.

America should love and cherish its unvaccinated people instead of marginalizing and oppressing them. It is time to learn from the history of marginalizing an oppressed group for its natural physical state. It is time to desegregate, right now, to save this Nation. Not only is desegregation calculated to rescue America from another embarrassing 'separate-but-equal' precedent, it is designed to save America from destruction itself in an exponentially escalating chronic illness emergency.

With the support of President Eisenhower in the 1950s, federal courts helped achieve desegregation for children born black (born naturally black, just like the never-vaccinated are born naturally unvaccinated). Desegregation was achieved by President Eisenhower despite pseudo-scientific references of the day that attempted to claim blacks were biologically inferior and would put whites in danger if allowed to congregate together in schools. *See, e.g., Brown v. Bd., supra,* 347 U.S. at 495:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

The Court in *Brown v. Bd.* famously fashioned a comprehensive nationwide desegregation remedy

enforced by ongoing judicial supervision at the district court level.

7. Recurring.

There comes a time for everyone to want to decline a vaccine — perhaps an annual flu shot, a Covid-19 booster, the recalled swine flu vaccine the day before the recall, or any of the 250-plus vaccines currently in R&D, according to the trade publication PhRMA.[8]

Once people see their red line, they become grateful that groups like the Control Group exist and tirelessly advocate for all Americans.

With regard to standing specifically, it is important for this Court to clarify how the Constitution protects the fundamental right of natural control groups to exist.

The principled dissent in *Juliana v. United States*, 947 F.3d at 1177, 1180 (constitutional case alleging "public health system collapse, and the extinction of increasing numbers of species") indicates this issue will continue to recur until distinctions are clarified:

> [U]nlike the majority, I believe the government has more than just a nebulous "moral responsibility" to preserve the Nation.
> ...

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[8] *Report: Medicines in Development for Infectious Diseases 2020 Report*, PHRMA (Jul. 21, 2020), https://phrma.org/resource-center/Topics/Report/Medicines-in-Development-for-Infectious-Diseases-2020-Report; Hannah Mooney Mack, *New report highlights more than 250 vaccines in development*, PHRMA (Aug. 18, 2016), https://catalyst.phrma.org/new-report-high lights-more-than-250-vaccines-in-development.

> Nor can the perpetuity principle be rejected simply because the Court has not yet had occasion to enforce it as a limitation on government conduct.
> ...
> The mere fact that we have alternative means to enforce a principle, such as voting, does not diminish its constitutional stature. Americans can vindicate federalism, separation of powers, equal protection, and voting rights through the ballot box as well, but that does not mean these constitutional guarantees are not independently enforceable. By its very nature, the Constitution "withdraw[s] certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts."[] When fundamental rights are at stake, individuals "need not await legislative action." [Citations omitted.]

Id.; see also *Santa Fe All. for Health & Safety v. City of Santa Fe*, No. 18-1209 KG/JHR, 2020 U.S. Dist. LEXIS 80196, at *17 (D.N.M. May 6, 2020):

> Unlike the plaintiffs in *Juliana*, Plaintiffs here do not ask the Court to demand action by another branch of government or engage in policy making or supervision. Instead, Plaintiffs seek a ruling that laws that prevent local governments from considering the harmful effects of [radiofrequency emissions] are unconstitutional. Accordingly, Plaintiffs are correct that their claims are distinguishable from those in *Juliana*, where the

> court emphasized the plaintiffs did not assert the violation of a procedural right or an otherwise "discrete and particularized injury necessary for Article III standing." *Juliana v. United States*, 947 F.3d at 1174.

While invoking certain principles articulated by the *Juliana* dissent, Petitioners nevertheless distinguish this case from *Juliana* (cited by the District Court). The *Juliana* plaintiffs sued numerous defendants and identified myriad sources for "climate change"; the instant case is pled with a single culprit — Respondent's federally sourced vaccines. The *Juliana* plaintiffs asked for decades of unlimited and vague judicial supervision. By contrast, the Control Group here asks for limited, short-term, and specific relief — a single court order confirming, for example, the right to decline vaccination without penalty (*i.e.,* natural people can exist).

The Control Group remembers Justice Harlan's words in 1905:

> There is, of course, a sphere within which the individual may assert the supremacy of his own will and rightfully dispute the authority of any human government, especially of any free government existing under a written constitution, to interfere with the exercise of that will.

Jacobson v. Massachusetts, 197 U.S. 11, 29 (1905).

An American's "supremacy of will" to remain peacefully natural should be non-discretionary and non-negotiable in the most fundamental sense. As for the rest of *Jacobson*, Petitioners seek the end of such case in the very place it was forged.

B. This case presents an excellent vehicle to protect a control group's right to exist.

This case is an excellent vehicle to resolve the question presented because:

- **Scientifically vetted**. The record is authoritatively cited. With her doctoral level scientific team, Garner produced probably the most comprehensive compendium and analysis ever (in a court case) of government data exposing the risk of vaccines.
- **Undisputed**. The record is complete and the facts are undisputed for purposes of the appeal.
- **Case Dispositive**. The district court decided the question presented, which was case dispositive.
- **Emblematic**. The facts here are emblematic of how this constitutional issue generally arises, where an unvaccinated person is denied access to normal life (*i.e.,* denied school, denied employment, denied access to government buildings).
- **Representative**. With 1,482 never-vaccinated participants, the Control Group represents the largest known fully unvaccinated cohort in the country. It is therefore statistically representative of our Nation's never-vaccinated people.

During emergencies, this Court is especially needed to defend the Constitution. *See e.g., Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020) (granting injunction against Governor Cuomo's public health restrictions on religious services because the restrictions were not actually serving public health in a manner consistent with the Constitution. Justice Gorsuch concurred:

> Why have some mistaken this Court's modest decision in *Jacobson* for a towering authority that overshadows the Constitution during a pandemic? In the end, I can only surmise that much of the answer lies in a particular judicial impulse to stay out of the way in times of crisis. But if that impulse may be understandable or even admirable in other circumstances, we may not shelter in place when the Constitution is under attack. Things never go well when we do.

Id. at 71.

Petitioners clearly alleged our Nation is in deadly peril because chronic disease rates are greater than 50% and rising, which is an emergency pandemic by any standard. App. C.

It is the President's job to declare an emergency when an immediate threat exists, even if that immediate threat is decades old. *See, e.g., California v. Trump*, 407 F. Supp. 3d 869 (N.D. Cal. 2019):

> [T]he President invoked his authority under the National Emergencies Act ("NEA"), Pub. L. 94-412, 90 Stat. 1255 (1976) (codified as amended at 50 U.S.C. §§ 1601-51), and declared that "a national emergency exists at the southern border of the United States." Proclamation No. 9844, 84 Fed. Reg. 4,949 (Feb. 15, 2019) ("Proclamation No. 9844").

Id. at 879; see also *City of Huntington v. AmerisourceBergen Drug Corp*., No. 3:17-01362, 2020 U.S. Dist. LEXIS 142674, at *18 n.4 (S.D. W. Va. Aug. 10, 2020)("on October 26, 2017, President Trump directed the Secretary of Health and Human

Services to declare the opioid crisis a Public Health Emergency. *See* Combatting the National Drug Demand and Opioid Crisis, 82 Fed. Reg. 50305 (Oct. 26, 2017).")

Petitioners have cited federal case law showing that when an executive fails to act during an emergency, the courts are equipped to declare the emergency and engage in ongoing supervision of remedies.[9]

Although methods of enforcement may be discretionary, enforcement itself is subject to mandamus,[10] and clear cases of emergency are particularly ripe for mandamus. *See, e.g., Williams v. Edwards*, 87 F.3d 126, 128 (5th Cir. 1996) ("By 1989, conditions in Louisiana prisons had so deteriorated that the district court declared a "state of emergency" and appointed an expert to assist in resolving these problems.")

In *Pac. Legal Found. v. Watt*, 529 F. Supp. 982 (D. Mont. 1981) the court upheld a statute empowering a House committee to declare an "emergency situation" with regard to public lands and to direct the Secretary of the Interior to withdraw the lands from mineral leasing activities. The court construed the statute narrowly, however, as leaving to the Secretary the decision on the scope

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[9] *See, e.g.,* Petitioners' Motion for Preliminary Injunction, D.Ct. Dkt. 16-1.

[10] *See End Lead Poisoning v. Koch*, 138 Misc.2d 188, 524 N.Y.S.2d 314 (1987) (overruling motion to dismiss on the grounds that the lead-based paint problem persists so the government must take some action to abate lead-based paint; "Although the method of enforcement may be discretionary, enforcement is not.")

and duration of the withdrawal, so as to avoid problems under the separation of powers doctrine.

Similarly, in *Brnovich v. Biden*, No. CV-21-01568-PHX-MTL, 2022 U.S. Dist. LEXIS 15137, at *49-51, 89 (D. Ariz. Jan. 27, 2022) the court upheld standing to sue the President for constitutional claims such as Fourteenth Amendment equal protection arising out of a Covid-19 vaccine mandate on federal contractors:

> Moreover, judicial review of Plaintiffs' claims obtains because "review of the legality of Presidential action can ordinarily be obtained in a suit seeking to enjoin the officers who attempt to enforce the President's directive." *Franklin*[*v. Massachusetts*], 505 U.S. [788] at 828 [(1992)] (Scalia, J., concurring in part and concurring in the judgment). Here, Plaintiffs seek to enjoin not only the President, but also the officers and entities charged with carrying out his instructions. *See Hawaii* [*v. Trump*], 878 F.3d [662] at 680-81 [(9th Cir. 2017)]. The Contractor Mandate is not self-executing; it involves a substantial number of officials and entities within the executive apparatus that are unquestionably subject to this Court's equitable jurisdiction. Thus, that Plaintiffs' claims implicate presidential action and raise questions regarding presidential authority does not preclude judicial review.

C. The District Court erroneously rejected the Control Group's standing.

The law recognizes that POTUS can be sued for actions of subordinates that POTUS knows, or

reasonably should know, cause subordinates to violate rights.[11]

Dismissal is appropriate only where "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45–46 (1957).

The District Court ignored the most important allegations in the complaint establishing jurisdiction and the dire national security emergency. Although the District Court claimed it took all allegations as true and in the Control Group's favor, the transparent reality is that Judge Shubb ruled instead upon a perception of the case outside the pleadings. *See* Order, App. B4 and discussion, *supra*, at Statement of the Case, section C.

The Control Group clearly alleged the National Vaccine Program is the President's human medical experiment and the President is "vigorously involved" in government mandates that only the President can remedy nationwide to save America. *See, e.g.,* App. C14-15, C43-44. All of the States are entwined with, and do execute, the vaccine policies of POTUS. D.Ct. Dkt. 4-3 (PRJN2).

Only the President must answer for his wrongful actions causing the disastrous public health pled in the Verified Petition. It would be highly inappropriate, futile, and impossible to join countless subordinates and departments across unknown jurisdictions. The Control Group is not centrally located.

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[11] *See, e.g.*, Congressional Research Service (2021) United States Constitution Annotated, Art. II, §3, *The President As Law Enforcer* ("The general rule, as stated by the Court, is that when any duty is cast by law upon the President, it may be exercised by him through the head of the appropriate department, whose acts, if performed within the law, thus become the President's acts." [citations omitted]).

The District Court was correct that the President is not the alleged "sole" cause of the Predicament. App. B5. Yet the District Court failed to appreciate that the President incentivized state and municipal agencies to implement and enforce his vaccine agenda *nationwide* in order to assure that all Americans are eventually injected with all of the President's "approved" vaccines. D.Ct. Dkt. 4-3 (PRJN2).

As with *Brown v. Bd.,* 347 U.S. at 495 (first declaring the right, then fashioning injunctive relief), declaratory relief is the first thing the District Court should have ruled upon, because well-fashioned declaratory relief can "create the remedy" and "terminate the controversy."[12] Respectfully, the District Court's erroneous reasoning is that declaratory relief cannot issue without injunctive, because district courts are apparently powerless to stop States from mandating vaccination:

> Even if the court granted the declaratory or injunctive relief sought by plaintiffs, it would not invalidate the provisions of California law — or similar provisions in other states' laws — which allegedly require students to be vaccinated in order to attend school. (See First Am. Compl. at ¶¶ 40(h), 41(h).)

App. B8.

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[12] 28 U.S.C. § 2201 ("Creation of Remedy") states, "any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." *See also* Fed. R. Civ. P. 57 Advisory Committee Notes ("A declaratory judgment is appropriate when it will 'terminate the controversy' giving rise to the proceeding.").

In other words, the District Court found that, in advance of the creation of any remedy (via a declaration of rights) the Control Group must be denied any opportunity to create a remedy, on grounds that enforcement of a remedy (injunctive relief) is not available in advance of the creation of that remedy via declaratory relief. This is circular and backwards logic. To claim that one must already have their remedy in hand before seeking the "creation of a remedy" through declaratory relief is to claim that 28 U.S.C. § 2201 ("Creation of Remedy") does not exist at all.

Nor is it a political question whether POTUS should either (a) save America from statistically certain destruction by chronic illness, or (b) medically experiment upon Americans without their consent.

Nowhere in the Constitution is any branch of government granted the power to use biological alteration drugs to experiment upon Americans without their consent.

Here, Petitioners carefully pled around any political questions. App. C45, C69 (¶93):

> Petitioners do not seek justiciability over any political questions … the imperative of recognizing the judicially noticeable facts and taking *some* appropriate action reasonably engineered to prevent the collapse of this Nation and prevent further harm to its people, is neither discretionary nor political. The tool of the Executive Order has been utilized historically to accomplish nationwide relief against countless State and local laws oppressing individuals across jurisdictions — for example, when President Abraham Lincoln freed slaves by Executive Order, blacks were not a protected class. When

> President Dwight Eisenhower used the tool of the Executive Order to desegregate schools (with the cooperation of the Federal Courts), he upheld civil rights by preempting oppressive State and local laws across the country.

As confirmed in 15 Moore's Federal Practice – Civil § 101.117 (2020), "the courts have invoked the political question doctrine primarily in cases involving housekeeping matters," with examples provided such as regulation of political parties, the electoral process, and enforcement of treaties.

None of these situations apply here. Certiorari is appropriate.

CONCLUSION

At this critical time in our Nation's history, with its very survival in the balance, Petitioners respectfully request that this Court grant a writ of certiorari.

Respectfully submitted,

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APPENDIX A

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOY GARNER, individually and on behalf of The Control Group; et al., Plaintiffs-Appellants, v. JOSEPH R. BIDEN, in his official capacity as President of the United States of America, Defendant-Appellee.	No. 21-15587 D.C. No. 2:20-cv-02470-WBS-JDP MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted February 24, 2022**
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: IKUTA, MILLER, and BADE, Circuit Judges.

Joy Garner, individually and on behalf of The Control Group — a non-profit organization that surveyed unvaccinated individuals for the purposes of this litigation—and a group of parents, who sue individually and on behalf of their minor children (collectively, Appellants), appeal the district court's dismissal of their complaint against the President of the United States in his official capacity for lack of standing. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.[1]

Appellants' First Amended Complaint (FAC) does not plausibly allege a causal connection between Appellants' alleged injuries and any actions by the President. Because Appellants' alleged injuries, ranging from being discriminated against due to local vaccine mandates to "the mathematically proven imminent dissolution of America from within," are

[1] We note the district court's February 11, 2022 order (Dkt. No. 39), which purported to vacate the order on appeal. The court's order had no effect, however, because it was issued after Appellants filed their notice of appeal in our court. *See Matter of Visioneering Constr.*, 661 F.2d 119, 124 n.6 (9th Cir. 1981) ("Once a notice of appeal is filed jurisdiction is vested in the Court of Appeals, and the trial court thereafter has no power to modify its judgment in the case or proceed further except by leave of the Court of Appeals."). Neither party requested leave for a limited remand to the district court to issue an indicative ruling. See Fed. R. Civ. P. 62.1; Fed. R. App. P. 12.1. Assuming without deciding that we may nonetheless remand in these circumstances, *Mendia v. Garcia*, 874 F.3d 1118, 1122 (9th Cir. 2017), we decline to do so here. Instead, we exercise our jurisdiction to determine de novo whether Appellants have standing. *Cf. United States v. Rodriguez*, 851 F.3d 931, 938–39 (9th Cir. 2017) (concluding that "a remand to the district court would be superfluous" when this court was required to conduct de novo review on appeal).

not "fairly traceable to the challenged action[s] of the defendant," *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (cleaned up), Appellants lack standing. As Appellants note in their FAC, there is no federally mandated vaccine requirement; instead, the CDC recommends various vaccine schedules, and state and local governments adopt their own mandates based on those recommendations. Appellants' FAC does not allege any plausible connection between any of the President's actions and the injuries Appellants have allegedly suffered as a result of state and local vaccine requirements.

Further, because Appellants seek declaratory and injunctive relief that we cannot grant against the President of the United States, such as ordering the President to conduct a national survey, *see Juliana v. United States*, 947 F.3d 1159, 1171 (9th Cir. 2020), Appellants' alleged injuries are not likely to be "redressed by a favorable decision." *Lujan*, 504 U.S. at 561 (internal quotation marks omitted).

Finally, the district court did not abuse its discretion in denying leave to amend because permitting leave to amend would have been futile. *See Perez v. Mortg. Elec. Registration Sys., Inc.*, 959 F.3d 334, 340–41 (9th Cir. 2020).

AFFIRMED.

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APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOY GARNER, individually and on behalf of The Control Group; JOY ELISSE GARNER, individually and as parent of J.S. and F.G.; EVAN GLASCO, individually and as parent of F.G.; TRACI MUSIC, individually and as parent of K.M. and J.S.; MICHAEL HARRIS, individually and as parent of S.H.; NICOLE HARRIS, individually and as parent of S.H.,
Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as PRESIDENT OF THE UNITED STATES OF AMERICA,
Defendant.

No. 2:20-cv-02470-WBS-JDP

MEMORANDUM AND ORDER RE: DEFENDANTS'S MOTION TO DISMISS, PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION, AND PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

Plaintiffs Joy Garner, individually and on behalf of The Control Group, Joy Elisse Garner, individually and as parent of J.S. and F.G., Evan Glasco, individually and as parent of F.G., Traci Music, individually and as parent of K.M. and J.S., and Michael and Nicole Harris, individually and as parent of S.H., ("plaintiffs") brought this action against Defendant President Joseph R. Biden ("the President") attempting to allege violations of the presidential oath of office, the First Amendment, various violations of the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the Eighth Amendment, the Thirteenth Amendment, the Fourteenth Amendment, the Ninth Amendment, and the Tenth Amendment.

Presently before the court are the President's Motion to Dismiss plaintiffs' first amended complaint ("Mot. To Dismiss") (Docket No. 28.), plaintiffs' Motion for Preliminary Injunction ("Mot. for Prelim. Inj.") (Docket No. 16), and plaintiffs' Motion for Judicial Notice ("Mot. for Judicial Notice") (Docket No. 4).

I. Factual and Procedural Background

Plaintiff Joy Garner founded and operates The Control Group, a non-profit organization that surveyed unvaccinated individuals for the purpose of this litigation. (*See* First Am. Compl. at ¶ 37.) (Docket No. 21). Garner lives in Roseville, California. (*See id.* at ¶ 36.) On July 4, 2020, the Control Group completed its tabulations of the results to date from its nationwide pilot survey of 1,482 completely unvaccinated Americans of all ages. (*See id.* at ¶ 37.)

Plaintiffs Elisse Garner and Evan Glasco have two minor children, J.S. and F.G., who are unvaccinated. (*See id.* at ¶ 40.) They live in Grass Valley, California. (*See id.*) J.S. and F.G. are

allegedly unable to go to public or private school in California, although they would like to, because California Health and Safety Code § 120325 requires vaccinations for school children to attend school unless they have a medical excuse. (*See id.* at ¶ 40(h).) Garner and Glasco have religious objections to vaccines and believe that there are serious health risks associated with vaccines. (*See id.* at ¶ 40(g–i).) Garner and Glasco also state that they have been denied "access to certain professions for themselves, not only within the state of California, but in many of the most populated American States they might wish to move to in the future." (*See id.* at ¶ 40(i).)

Plaintiffs Michael and Nicole Harris are the parents of S.H., an unvaccinated child. (*See id.* at ¶ 41.) They live in Carlsbad, California. (*See id.*) They have religious objections to vaccines. (*See id.* at ¶ 41(g).) S.H. is allegedly unable to go to public or private school in California, although he would like to, because California Health and Safety Code § 120325 requires vaccinations for school children to attend school unless they have a medical excuse. (*See id.* at ¶ 41(h).)

Plaintiff Traci Music is the parent of K.M. and J.S., two unvaccinated children. (*See id.* at ¶ 42.) The Music family lives in Alabama but may be transferred to another state during the pendency of the proceeding because Music's husband is an officer in the military. (*See id.*) Music has a religious objection to vaccination. (*See id.* at ¶ 42(g).) Music also contends that her child S.S. suffered from multiple injuries as a result of vaccination, including legal blindness in her left eye and partial deafness. (*See id.* at ¶ 42.) Music allegedly felt extreme pressure to vaccinate S.S. by a physician in Arizona who threatened to contact Arizona Child Protective

Services if she did not vaccinate S.S. (*See id.* at ¶ 42(j).) While living in North Carolina, Music also claims to have been the subject of an anonymous and complaint to North Carolina Child Protective Services where the basis of the complaint was that Music was homeschooling her children and did not vaccinate them. (*See id.* at ¶ 42(k).) Given the Music family's active military status, the Music family "remains in a constant state of uncertainty" whether they will find themselves unexpectedly and unpredictably in a state that does not recognize a religious exemption to vaccination. (*See id.* at ¶ 42(h).)

Plaintiffs seek a preliminary injunction to guarantee that an unvaccinated control group (i.e. a group of completely unvaccinated Americans who could be studied in comparison to vaccinated Americans) remain intact and free from discrimination and coercion with respect to their military service, education, livelihood, and religious freedom. (*See* Mot. for. Prelim. Inj. at 2.)

II. Discussion

A motion to dismiss for lack of a case or controversy under Article III of the Constitution must be analyzed under Federal Rule of Civil Procedure 12(b)(1). *See Chandler v. State Farm Mut. Auto. Ins. Co.*, 598 F.3d 1115, 1121 (9th Cir. 2010); Fed. R. Civ. P. 12(b)(1). On such a motion the court must accept as true all material allegations in the complaint and must construe the complaint in the nonmovant's favor. *See Bernhardt v. County of Los Angeles*, 279 F.3d 862, 867 (9th Cir. 2002). The court may not speculate as to the plausibility of the plaintiff's allegations. *See id.*

The Constitution limits federal courts' jurisdiction to cases and controversies, which

includes the requirement that each plaintiff have standing with respect to each claim he or she asserts. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559–60 (1992). To establish standing, a party must demonstrate three elements. *See id.* at 560. First, the plaintiff must have suffered an "injury in fact" — an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. *See id.* Second, there must be a causal connection between the injury and the conduct complained of; the injury has to be "fairly ... trace[able] to the challenged action of the defendant and not ... th[e] result [of] the independent action of some third party not before the court." *Id.* Third, it must be "likely" as opposed to merely "speculative" that the injury will be "redressed by a favorable decision." *Id.* at 561. The party invoking federal jurisdiction bears the burden of establishing these elements. *See id.*

For the purposes of this discussion, the court assumes, but does not decide, that plaintiffs can demonstrate that they have suffered an injury in fact. However, plaintiffs acknowledge multiple times that the President "is not the sole cause of" their purported injuries. (*See* First Am. Compl. at ¶¶ 20, 117, 127, 144, 148, 157, 163.) That is an understatement. The first amended complaint contains no allegation that any department or agency of the federal government, much less the President, is responsible for any of their alleged injuries. To the contrary, plaintiffs even note that there is no mandatory vaccine federal requirement and that the Center for Disease Control ("CDC") recommended vaccine schedules are not mandated. (*See* First Am. Compl. at ¶ 52(a).)

Instead, plaintiffs allege throughout their first amended complaint that the actions complained of

are the result of independent actions by third parties not before the court. Several plaintiffs complain that their children are unable to attend school in California because they have religious objections to vaccination. (*See id.* at ¶¶ 40(h), 41(h).) However, as plaintiffs acknowledge, it is not a federal law that prohibits their children from attending school in California, but a law passed by the state of California. *See* Cal. Health & Welfare Code § 120325; (*See* First Am. Compl. at ¶¶ 40(h), 41(h).)

Plaintiff Music alleges that she was visited or threatened with a visit by child protective services in North Carolina and Arizona, (*see id.* at ¶¶ 42(j–k)), but again there are no facts suggesting that any federal law or federal entity, much less the President, was in any way involved with those incidents. Plaintiffs likewise repeatedly state that many of the perceived threats and alleged discrimination to unvaccinated populations stem from local governments. (*See id.* at ¶¶ 52(a), 74, 143, 147, 155.)

In sum, there are no allegations in the first amended complaint to support even an inference that the injuries plaintiffs complain of are traceable to any act or omission of the President but rather result from the conduct of independent third parties not before the court.[1]

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[1] Plaintiffs claim that "only the President of the United States of America and Commander in Chief of the Armed Forces has the authority to protect Petitioners from the myriad and evershifting initiatives to vaccinate every individual in America as much as possible, which have stoked hatred and vilification of unvaccinated Americans." (*See* First. Am. Compl. at ¶¶ 60–61.) They also contend that it is the President's duty to acknowledge that America has been segregated and to take some appropriate action to either desegregate or justify the continued infringement upon Petitioners' 5th Amendment and

Plaintiffs likewise fail to sufficiently allege that their claimed injuries will be redressed by a favorable decision in this action. "To establish redressability, the plaintiffs must show that the relief they seek is both (1) substantially likely to redress their injuries; and (2) within the district court's power to award." *Juliana v. United States*, 947 F.3d 1159, 1170 (9th Cir. 2020). Here, the court cannot envision how anything it could constitutionally order the President to do in this action would remediate any of plaintiffs' alleged injuries.

The relief plaintiffs seek in this action is to have the court order the President to take unspecified actions to prevent purported discrimination against vaccine objectors, perform a national survey of unvaccinated Americans, and then establish a national informed consent system whereby "vaccines shall not be administered unless the patient has reviewed the actual numerical increased risks of disease, disability, and death associated with exposure to vaccines" in the short and long term. (*See id.* at ¶ 172.) It requires a stretch of the imagination

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other rights. (See id. at ¶ 107.) Plaintiffs further contend that the "President, by omission of oversight, has not prevented the vilification, infliction of threats, and coercion of mandatory vaccination upon [plaintiffs] which has placed [them] in a position of actual, particularized danger, threatening national security." (See id. at ¶¶ 120–21.) They also state that the President "has actively supported subordinate executive agencies and myriad others contributing to the 'predicament' (by which they mean chronic illnesses allegedly caused by vaccines) in spite of their known and obvious dangers." (Id.) Such generalized and politically charged assertions demonstrate a lack of appreciation of the respective roles of the President and the courts under our Constitutional system, and this court need not dignify them with any further discussion or response.

to see how such an order would compensate plaintiffs for their past injuries or prevent any future injuries resulting from their refusal to be vaccinated or their being compelled to be vaccinated. Even if the court granted the declaratory or injunctive relief sought by plaintiffs, it would not invalidate the provisions of California law — or similar provisions in other states' laws — which allegedly require students to be vaccinated in order to attend school. (*See* First Am. Compl. At ¶¶ 40(h), 41(h).)

For the foregoing reasons, plaintiffs have failed to sufficiently allege standing to pursue their claims against the President in this action. "Although there is a general rule that parties are allowed to amend their pleadings, it does not extend to cases in which any amendment would be an exercise in futility, or where the amended complaint would also be subject to dismissal." *See Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1298 (9th Cir. 1998)(internal citations omitted). Here, in order to overcome the lack of standing, plaintiffs would have to seek entirely different relief against an entirely different defendant or defendants. That, in essence, would have to be an entirely different action. The court will accordingly not grant plaintiffs leave to further amend their complaint in this case.

IT IS THEREFORE ORDERED that the United States' motion to dismiss, (Docket No. 28), be, and the same hereby is, GRANTED and the case is DISMISSED WITH PREJUDICE. Because the court lacks jurisdiction to hear plaintiffs' claims, the court DENIES plaintiffs' Request for Judicial Notice (Docket No.4) and Motion for Preliminary Injunction (Docket No. 16).[2]

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[2] The court notes plaintiffs' objection to "this Court's rush briefing schedule that afforded petitioners' five calendar days to

The Clerk of Court is instructed to enter judgment accordingly.

Dated: February 22, 2021

/s/ William B. Shubb
WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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file an opposition brief to respondent's motion to dismiss." (See Opp'n to Mot. To Dismiss at 18) (Docket No. 31).) However, at the status conference held on February 1, 2021, the court informed all parties that it would be helpful to hear defendant's motion to dismiss at the same time as plaintiffs' motion for preliminary injunction and request for judicial notice. (See Docket No. 27.) The reason that an accelerated briefing schedule was necessary was because plaintiffs refused to stipulate to a one month continuance and insisted that the court keep the scheduled hearing date of February 22, 2021 for plaintiff's request for a preliminary injunction. The court further notes that at the February status conference, all parties agreed to an accelerated briefing schedule.

APPENDIX C

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**UNITED STATES DISTRICT
COURT OF CALIFORNIA
EASTERN DISTRICT – SACRAMENTO**

Joy Garner, individually and on behalf of The Control Group; Joy Elisse Garner, individually and as parent of J.S. and F.G.; Evan Glasco, individually and as parent of F.G.; Traci Music, individually and as parent of K.M. and J.S., Michael Harris, individually and as parent of S.H., Nicole Harris, individually and as parent of S.H.,
Petitioners,
v.
PRESIDENT OF THE UNITED STATES OF AMERICA in his official capacity,
Respondent.

Case No.: 2:20-CV-02470-WBS-JDP

FIRST AMENDED VERIFIED PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

VERIFIED PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION: Outline of the Problem & the Factual Allegations

1. As a matter of national security, this Constitutional case is respectfully brought by scientifically-focused patriotic Americans, including United States military family members.

2. The American population is currently in the process of being *decimated* by chronic illness, due to injured and dysfunctional immune systems. See Petitioners' Request for Judicial Notice Appendices One and Two, such as:

Most American Adults Are Wounded and Dying

A. According to the Centers of Disease Control and Prevention (CDC): "Six in 10 adults in the US have a chronic disease. Four in 10 have two or more." Citation: National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, *Chronic Diseases in America.* https://www.cdc.gov/chronicdisease/resources/infographic/chronic-diseases.htm.

B. According to the American Heart Association, 48% of American adults suffer heart disease. Citation: AHA News (2019). Cardiovascular diseases affect nearly half of American adults, statistics show.

https://www.heart.org/en/news/2019/01/31/cardiovascular-diseases-affect-nearly-half-of-american-adults-statistics-show.

i. Note that heart disease is related to a dysfunctional/injured immune system: "Atherosclerosis (AT) was once considered to be a degenerative disease that was an inevitable consequence of aging. However, researchers in the last three decades have shown that AT is *not* degenerative or inevitable. It is an *autoimmune*-inflammatory disease associated with infectious and inflammatory factors, characterized by lipoproteins metabolism alteration that leads to immune system activation with the consequent proliferation of smooth-muscle cells, narrowing arteries and atheroma formation." (Emphasis added.) See Amaya-Amaya J, Sarmiento-Monroy JC, Rojas-Villarraga A. Cardiovascular involvement in autoimmune diseases. In: Anaya JM, Shoenfeld Y, Rojas-Villarraga A, et al., editors. Autoimmunity: From Bench to Bedside [Internet]. Bogota (Colombia): El Rosario University Press; 2013 Jul 18. Chapter 38. Available from: https://www.ncbi.nlm.nih.gov/books/NBK459468/

C. According to the CDC, "34.2 million people have diabetes. That's about 1 in every 10 people. 1 in 5 don't know they have diabetes. 88 million adults – more than 1 in 3 – have prediabetes. More than 8 in 10 adults don't know they have prediabetes." Citation: CDC (2020). A Snapshot: Diabetes In The United States.

https://www.cdc.gov/diabetes/library/socialmedia/infographics/diabetes.html.

Approximately One Half of America's Children Are Wounded and Dying

D. A 2011 Health Affairs assessment estimated that 43 percent (32 million) of American children currently suffer from at least one of twenty chronic health conditions, which increases to more than half (54.1 percent) when overweight, obesity or being at risk for developmental delays are included. Nearly one-fifth (14.2 million) of children have conditions resulting in a special health care need, and these numbers has increased/ worsened steadily since 2011. Citation: Bethell *et al*. (2011). A national and state profile of leading health problems and health care quality for US children: key insurance disparities and across-state variations. *Academic Pediatrics* 11(3 Suppl):S22-S33. https://doi.org/10.1016/j.acap.2010.08.011.

i. Vaccines are also known to alter the metabolic system that regulates diet and therefore even common conditions like obesity are immune-mediated. See e.g., Perez de Heredia, F (2012). Obesity, inflammation and the immune system. Proc Nutr Soc. 2012 May;71(2):332-8. https://pubmed.ncbi.nlm.nih.gov/22429824/

E. A 2018 *Pediatrics* study reported that one-fifth of American children and adolescents regularly use prescription medication and 12% of boys aged six to 12 years are prescribed more than one drug. Citation: Dima *et al*. (2018). Prescription Medication Use Among Children and Adolescents in the

United States. *Pediatrics* 142(3):e20181042. https://doi.org/10.1542/peds.2018-1042.

America Is Being Decimated

F. Autoimmune diseases, of which there are at least 80 distinct conditions, occur as a result of the immune system attacking the body's own tissues and organs. Some of the more common autoimmune conditions include type 1 diabetes, rheumatoid arthritis, systemic lupus erythematosus and inflammatory bowel disease. Taken together, these conditions, once so rare they were virtually unheard of, have increased from year to year for mostly unknown reasons and are now, "as a group afflict 5%–9% of the U.S. population," according to a report in International Journal of Molecular Sciences. Citation: Parks et al. (2014). Expert panel workshop consensus statement on the role of the environment in the development of autoimmune disease. International Journal of Molecular Sciences 15(8):14269-14297. https://doi.org/10.3390/ijms150814269

G. According to the CDC, chronic disease and mental illness account for most American deaths, consume 90% of the Nation's $3.5 trillion in annual health care expenditures and are projected to account for more than $42 trillion in spending by 2030. Citations: National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, *Health and Economic Costs of Chronic Diseases.* https://www.cdc.gov/chronicdisease/about/costs/index.htm#ref1; Allegrante *et al.* (2019). Interventions to Support Behavioral Self-

Management of Chronic Diseases. *Annual Review of Public Health* 40:127-146. https://doi.org/10.1146/annurev-publhealth-040218-044008

H. The majority of Americans aged 17 to 24 are no longer fit for military service. "Approximately 71% of the 34 million 17-to-24-year-olds in the U.S. would not qualify for military service because of reasons related to health, physical appearance and educational background, according to the Pentagon." Feeny, N. (2014). Pentagon: 7 in 10 Youths Would Fail to Qualify for Military Service. *Time Magazine*. https://time.com/2938158/youth-fail-to-qualify-military-service/

3. The vast majority of health problems suffered by Americans today are the consequence of, and/or are directly related to, a *dysfunctional immune system,* i.e., those that are now formally-classified as autoimmune disorders, and are known to be immune-mediated, including heart disease, diabetes, thyroid disorders, asthma, arthritis, cancer, kidney failures, etc. See Petitioners' Request for Judicial Notice Appendix One, which is organized to feature the hard evidence that America's pandemic is one of immune-mediated disorders (dysfunctional and injured immune systems).

4. Approximately 99.74% or more of the American population has been exposed to immune-system-altering vaccination.[1] The mechanisms of

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[1]See Petitioner Joy Garner's Declaration ("Garner Declaration") In Support of Motion for Preliminary Injunction, especially Exhibit C, "*Statistical Evaluation of Health Outcomes in the Unvaccinated*" Full Report, Chapter 4, which contains calculations calibrated from the CDC's most recent studies.

immune system altering vaccine adjuvants remain poorly understood, i.e., "elusive".[2] See Petitioners' Request for Judicial Notice Appendix Two.

5. The health of this over 99% vaccine-exposed population, the vaccinated 'herd', is well-documented in our judicially noticeable National disease statistics, which represent the health of this population, at any level of vaccine exposure. See Petitioners' Request for Judicial Notice Appendix One.

6. Our Nation has never faced an *infectious* disease threat anywhere near as devastating or threatening as our Nation's current pandemic of *immune-mediated* illnesses, disabilities, and related deaths. See Petitioners' Request for Judicial Notice, Appendix Two, especially section 43 entitled "20th Century Disease Mortality Reductions Caused By Improved Living Conditions Prior to Vaccines".

7. The most obvious culprit in our Nation's current *non*-infectious pandemic of immune-mediated chronic diseases, disabilities, and related deaths, is *exposure to immune-system altering vaccines*. See Petitioners' Request for Judicial Notice, Appendices One and Two, and the Supporting Declarations of Petitioners' Experts.

8. No branch of government, nor any government agency, has examined this particular problem, and if anything, all branches of government go to great pains to conceal both the severity of the prob-

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[2]"However, how these mineral agents influence the immune response to vaccination remains elusive. Many hypotheses exist as to the mode of action of these adjuvants, such as depot formation, antigen (Ag) targeting, and the induction of inflammation." Ghimire, TR (2015). The mechanisms of action of vaccines containing aluminum adjuvants: an *in vitro* vs *in vivo* paradigm. *Springerplus*. 2015; 4: 181. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4406982/

lem and its most obvious primary cause. See Petitioners' Request for Judicial Notice, Appendix Two.

9. The government's Vaccine Adverse Event Reporting System ("VAERS") numbers have been cited falsely as "proof" that vaccines are relatively safe. The VAERS numbers are over 99% incorrect, and the long-term risks of vaccination are not tracked *at all*.[3] Immune disorders are progressive, taking weeks, months, or even years, before the victim might become aware their life will never be the same, that what is left of it will be spent in agony, and/or that it will likely end prematurely.

10. In setting vaccine-related public health policies, the over 99% *incorrect* VAERS numbers are relied upon as 'evidence' that vaccine risks are low, or 'rare', which to this day, remains the primary support for the false slogan vaccines are "worth the risks". The *only* scientifically relevant evidence that could support any conclusions about the numerical frequency of health injuries suffered as a result of vaccination, is a statistical comparison of health

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[3]See Petitioners' Request for Judicial Notice, Appendix Two, Exhibit 293, "Adverse events from drugs and vaccines are common, but underreported….fewer than 1% of vaccine adverse events are reported…. New surveillance methods for drug and vaccine adverse effects are needed." Lazarus, R., et al. (2007). Grant Final Report: Electronic Support for Public Health–Vaccine Adverse Event Reporting System (ESP:VAERS). *The Agency for Healthcare Research and Quality (AHRQ) U.S. Department of Health and Human Services.* https://healthit.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf
NOTE: This study, exposing the 99% failure rate of the VAERS, was intentionally concealed from public view under the Obama administration, and nothing changed over at the FDA or the VAERS under Obama's administration as a result of these findings.

outcomes between those who are exposed to vaccines, *against the true controls*. This is the most fundamental requirement of the scientific method in this instance, and it is the one method most vehemently *rejected* in "vaccine safety science" today. See Petitioners' Request for Judicial Notice, Appendix Two.

11. In addition to VAERS, to dishonestly support their false claims of "safety", public health authorities cite vaguely to "safety studies" and pre- and post-marketing clinical trials of vaccines, but such short-term "safety studies" and pre- and post-marketing clinical trials fail in every single instance to compare a statistically significant group of vaccinated individuals to completely unvaccinated individuals. For example, the American Academy of Pediatrics (AAP) and related groups attempted to misinform the President of the United States of America regarding vaccine risk in 2017. See, AAP News (2017). *Vaccines save lives': 350 groups sign letter to President Trump.* https://www.aappublications.org /news/2017/02/08/VaccineLetter020817. In response to such AAP disinformation, a thorough independent review was published by Dr. James Lyons-Weiler exposing the inadequacy of every single citation in the AAP's 28-page letter to Respondent. See, Lyons-Weiler, J. (2018). *Systematic Review of Historical Epidemiologic Studies Influencing Public Health Policies on Vaccination*. IPAK. http://ipaknowledge. org/resources/LYONSWEILERSYSTREVIEW.pdf;
See also, Lyons-Weiler, J. (2018). *Supplementary Material.* IPAK. http://ipaknowledge.org/resources /SUPPLEMENT%20Power%20Calculations.pdf.
Moreover, corroborating evidence for Petitioners' Control Group Survey data (described herein) can be found in the recently published 'vaccinated versus unvaccinated' study by James Lyons-Weiler, PhD

and Paul Thomas, MD: Lyons-Weiler, J. and Thomas, P. (2020) Relative Incidence of Office Visits and Cumulative Rates of Billed Diagnoses Along the Axis of Vaccination. *Int. J. Environ. Res. Public Health* 2020, *17*(22), 8674; https://doi.org/10.3390/ijerph17228674.

12. The Petitioners' evidence demonstrates that severe and debilitating vaccine health injuries are *very* common. And they far outweigh even the most outlandishly exaggerated hypothetical projections of harm the 'experts' have claimed Americans would suffer *without* vaccines.[4] The American population of entirely unexposed *true* scientific 'controls', i.e., the unvaccinated population (calculated at approximately 830,000 remaining in the USA at this time) are largely *unaffected* by most of the chronic health conditions suffered by Americans today. Consequently, the unvaccinated population has exponentially higher overall chances of *survival* than those who've been exposed to vaccination, regardless of the varying levels of exposure/s in the over 99% vaccine-exposed population. *See*: Garner Declaration,

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[4] See Petitioners' Request for Judicial Notice, Appendix Two. Indeed, evidence shows that during the first wave of polio in the USA in 1916 (long before a polio vaccine was available) there was only a 0.0386% chance of contracting polio in the USA, and only a 0.0086% risk of death from polio in the USA. In the next polio wave of 1952, three years *before* a vaccine was generally available in the USA, there was only a 0.035% risk of contracting polio in the USA, and only a 0.0019% risk of dying from it in the USA. The polio case rate had already begun to *plummet* dramatically *before* the vaccines came into use. See Tucker, J (2020). No Lockdowns: The Terrifying Polio Pandemic of 1949-52. *American Institute for Economic Research.* https://www.aier.org/article/no-lockdowns-the-terrifying-polio-pandemic-of-1949-52/

Exhibit A, Comparison Graphs, as well as Exhs. B & C, the supporting reports.

13. The Control Group dataset provides *profound* proof that vaccine exposure is in fact the primary cause of this Nation's current public health crisis.[5] Petitioners' evidence *exponentially* exceeds the standards of proof relied upon by the FDA in drug approvals. This evidence also far exceeds *any* known statistical standard of proof relied upon in any scientific field in the world today, even far surpassing those relied upon by CERN, the world's largest physics lab, which uses the world's highest statistical standards for proving the existence of *hypothetical* particles. For example, Petitioners' evidence demonstrates the p-value (probability or odds) that the excess health conditions seen in the vaccinated population under the age of 18 are <u>not</u> due to vaccine exposure is 1 in 84,721,527, 559,728,800,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000. And certainly the Petitioners' statistical evidence, provided herein, far exceeds the standards relied upon to obtain murder convictions in forensic criminal prosecutions within our Federal courts.[6] In the instance of the Control Group dataset, the statistical evidence relies upon *already observed* health outcomes, i.e., historical data, which is of far superior evidentiary value than any hypothetical

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[5] See Garner Declaration, *Exhibit B*, Summary Report, page 8, items numbered 6 thru 9.

[6] See: Executive Office of The President's Council of Advisors on Science and Technology (2016). REPORT TO THE PRESIDENT Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods. https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_science_report_final.pdf

projection models, let alone numerically unsubstantiated slogans.

14. It is understood that chronic health conditions, i.e., 'comorbidities' particularly multiple conditions, reduce survival rates, and *also* increase vulnerability to, and risk of death from, infectious diseases.[7]

15. The current state of vaccine-related public health policy is *not* based in science. Science requires the basic elements, such as *true* controls, and *actual numbers*. Scientifically valid numbers cannot be provided from an accounting system that is incorrect over 99% of the time. Flipping a coin would produce a more reliable accounting of vaccine risks than the VAERS. The so-called "vaccine science" the public is instructed to blindly trust, is now largely made up of a plethora of outrageously false and subjective slogans which project the false impression vaccines are "safe", and this false claim is premised solely upon the equally false claim the *frequency* of vaccine injuries are low, resulting in the "relatively safe" or "worth the risks" assumptions about vaccination. However, such purportedly 'expert' slogan-opinions do not qualify as *science*. And they are of precisely *zero* scientific value in determining a risk/benefit ratio, which requires a set of *numbers* for an *equation*. This is something no agency of government

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[7] See CDC (2020). Weekly Updates by Select Demographic and Geographic Characteristics. *NCHS*. https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm#Comorbidities (94% of claimed 'covid-19' deaths were in those with an average of 2.6 comorbidities each, some of which were actually *fresh bullet wounds*. And yet, the CDC has refused to properly adjust their numbers to reflect the truth here. The fact the CDC owns vaccine patents and profits from their sales is directly related to their failure to accurately report the true causes of death). See also Petitioners' Request for Judicial Notice, Appendix Two.

has ever provided to the public with regard to the risks of vaccination. Without knowing the *price* to be paid, there is no method by which to determine if vaccination is "worth it", either for any one individual, or for the collective "herd", i.e., public health.[8] Vaccines are, and always have been,

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[8] *See e.g.,* Wendy E. Parmet, Public Health and Constitutional Law: Recognizing the Relationship, 10 J. Health Care L. & Pol'y 13 (2007). Available at: http://digitalcommons.law.Umaryland.edu/jhclp/vol10/iss1/3 ("Epidemiology, however, also plays an important role in constitutional law, especially in many doctrines and cases, some of which were discussed above, in which the state's purported attempt to protect public health is relevant to the determination of the constitutionality of state action. Indeed, in such cases epidemiology and its sister sciences, such as biostatistics, are absolutely critical to understanding both what courts are doing and the constitutionality of particular state actions. ... Consider, for example, the Court's analysis of Massachusetts's attempt to regulate cigar and smokeless tobacco advertising in Lorillard Tobacco Co. v. Reilly. Under the prevailing First Amendment commercial speech doctrine, the constitutionality of the state's regulations depended upon the state being able to show, first, that it was advancing a substantial state interest, second, that the regulations directly advanced such an interest, and third, that the regulations were no more extensive or burdensome than was necessary. As previously discussed, the Court has consistently accepted that public health is a valid and even important state function. But how could the Court know that the regulation of tobacco marketing to minors was in fact related to protecting public health? Moreover, how could the Court know whether the regulations protected public health, either directly or at all, and in a manner no more extensive than is necessary to achieve the state goal? ***To answer each of these questions, the Court had to review and assess epidemiological evidence***." [emphasis added] No governmental agency has ever provided epidemiological evidence to support vaccine safety claims. The only evidence relevant to answering this particular question is a *numerical accounting* of the health outcomes between exposed and unexposed. Nothing short of this can answer the question: Are vaccines producing more good than

experimental. See Petitioners' Request for Judicial Notice, Appendix Two.

16. Unlike the evidence presented herein, the government has *never counted the victims of vaccination*, and therefore has nothing with which to support any claim vaccines are doing less harm than good. Therefore, no branch of government can show a compelling or competing interest to that of the Petitioners here. The decimation of the American population is *not* a public good. Pharma profits must now take a back seat to the public good, as the survival of our Nation now hangs in the balance. Actual science must now, finally, take center stage and become the basis upon which public health policy depends. Public health policy can no longer be based upon unsubstantiated slogans, no matter how many PhDs are attached to them. Strict scrutiny must apply to any government claims of public good through vaccination. For if it is not applied, our Nation has no chance of survival based on current health trajectories.

17. Petitioners request this Court *immediately* free the American people from any form of discrimination for refusing to participate in this mass, ongoing, human medical experiment. This is particularly true when the potential value of this experiment to the 'advancement of medical knowledge' is presently *zero*, given the fact the government has been wearing a blindfold to the

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harm to public health? A million experts claiming safety without numbers cannot stand before one expert with numbers. History has shown us the power of deference to authority via bloodletting as the misguided standard of care, tobacco science falsely claiming to be good for health, Vioxx science as bought and paid for by Pharma, and many recalled vaccines. Deference to authority without num-bers is unscientific. Control group science is scientific.

number of its wounded and fallen, refusing to count even 1% of the *immediately visible* wounded and fallen. We would never allow our wounded and fallen on the battlefield such dishonor, but in the war on infectious disease the American Citizen is not counted for purple hearts in the name of the President. No branch of the government has ever *once* calculated the actual *price* being paid for this claimed vaccine 'protection'. Apparently, when the cost is measured in human suffering and deaths, the government finds there is no *reason* to ever tally it up. Vaccines, the public is told, are simply "worth it". And this mere *slogan* is the supposed "science" which the public is asked to forever trust without question.

18. Confirmed by Petitioners' Requests for Judicial Notice, there exists today a national pandemic of immune-related chronic diseases, disabilities, and disorders in the United States of America ("National Health Pandemic"). The relief requested herein is calculated to have an immediate and direct impact on national security. Protecting the United States of America is the President's duty, and only he (or the Court acting in respect of him) as President and Commander in Chief of the Armed Forces is able to provide the relief requested herein which is specific to national security.

19. The conflicting and ever-shifting policies among myriad lower government bodies have frustrated to futility scientific attempts to confirm and remedy the causes of the National Health Pandemic. Further confirmation of the causes of the National Health Pandemic requires that the President take immediate action to protect and survey 'control groups' necessary to the scientific method as a matter of national security. Doing so while facing a strong headwind of unscientific assumptions about control groups that vary in

different jurisdictions, within a quagmire of ever-changing legal coercion techniques based on those assumptions, is the challenge (hereinafter "Predicament").

20. The President of the United States of America is not the sole cause of the Predicament, but as President and Commander in Chief of the Armed Forces he (or the Court acting in respect of him) is the only one able to provide the national security remedy to solve it.

21. Like so many controversies in this country, this Predicament began with good intentions of protecting our country's health. Now, in light of America's National Health Pandemic, the President must take action in order to fulfill his duty to preserve, protect, and defend, the Constitution for the United States of America. An Executive Order, Presidential Proclamation, Presidential Directive, Presidential Determination, Presidential Memorandum or other action of his reasonable choosing (hereinafter "Order") can if properly written fulfill the President's duty to safeguard the health, safety and security of our nation.

II. NATIONAL SECURITY EMERGENCY: Four Judicially Noticeable Facts Prove The Unavoidably Unsafe Vaccine Predicament for Control Groups and the Nation

22. This verified petition for declaratory and injunctive relief is justified by the impending involuntary dissolution of the United States due to catastrophic national rates of immune-related chronic diseases, disabilities, and disorders. Without immediate alteration of America's self-evident trajectory, our National structure will ultimately collapse under the weight of disabilities, loss of

workforce, healthcare costs, plummeting fertility, and the like. Faced with this National Health Pandemic never before seen in the Nation's history, Petitioners respectfully petition the Court for an exercise of the Court's fundamental power under Article III of the Constitution for the United States of America, to act as an intermediary between the President of the United States of America and the people of the United States of America as follows:

A. Declaring a national health emergency

B. Authorizing a national health survey of a control group of unvaccinated individuals

C. Upholding Constitutional protections for individuals exercising the right of informed consent in medical decision making

23. Vaccines are unavoidably unsafe. See, Code of Federal Regulations, Restatement of Torts, (Second) 402A (k) ("Unavoidably Unsafe"). The United States Supreme Court has opined on this classification in *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 234, 251 (2011). An unavoidably unsafe product is defined by a hodge-podge of criteria and a few examples, such as the Pasteur rabies vaccine and experimental pharmaceuticals. ... the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings"). The correct synonym for "unsafe" is *dangerous*. But the law itself is unable to answer the question: 'How dangerous numerically?' In this case, Petitioners respectfully request actual verified numbers from Respondent.

24. Four judicially noticeable facts define this case, which are the subject of Petitioners' Requests for Judicial Notice relying *exclusively* on published scientific consensus documents comprised of top medical journals and dictionaries, the official

authoritative records of American public health agencies, and the public records (e.g., census data, national health data) relied upon by those public health agencies in setting public health policy:

A. **National Health Pandemic**: The United States of America is suffering a pandemic of chronic diseases, disabilities, and disorders that are the result of injured and dysfunctional immune systems. Petitioners hereby refer to their Request for Judicial Notice Appendix One ("PRJN1").

B. **Immunity Altered:** Vaccines are designed to cause, and do cause, permanent alterations to the immune system. Petitioners hereby refer to their Request for Judicial Notice Appendices One and Two.

C. **Numerically Undefined:** The United States government has never publicly evaluated vaccines numerically for long-term or cumulative health risks, in comparison to a large group of fully unvaccinated individuals. Petitioners hereby refer to their Request for Judicial Notice Appendix Two ("PRJN2").

D. **Ongoing Injuries & Endangered Population.** Approximately 99% or more of the American population has received one or more vaccinations. Less than 1% of Americans remain entirely unexposed. Petitioners hereby refer to PRJN2.

25. These four judicially noticeable facts lead objective scientists and physicians to conclude that further scientific survey is necessary to further confirm the extent to which vaccines, which are designed to alter the immune system, are responsible for our Nation's current pandemic of immune system related illnesses.

26. For the entire duration of American history, no scientist or institution had ever before published large-scale mathematical data comparing the overall health of the vaccinated compared to the unvaccinated. See PRJN2. But Petitioners' nationwide (48 states) dataset and study prepared for this litigation (The Control Group) reliably provides the requisite numerical evidence, and is fully corroborated by small to medium scale studies which *consistently* reveal the unvaccinated are exponentially healthier than the vaccinated. See Expert Declarations In Support of Petitioners' Motion for Preliminary Injunction.

27. The scientific method is necessary to further evaluate the impact vaccines are having on the overall health of Americans. For the entire duration of American history, no institution has ever published conclusive mathematical data proving the long-term cumulative health effects of vaccines recommend by the United States government. See PRJN2. Consequently, it is mathematically impossible for any public health official in America to specify reliable risk/benefit ratios in deciding whether or not this class of pharmaceutical product is, in the aggregate, helping or damaging public health. In other words, how can vaccine mandates be narrowly tailored to achieve a compelling government interest if the public health officials cannot even demonstrate whether their mandated cure is worse than the disease?

28. The scientific method requires true controls in product safety inquiry. The **scientific method** is one wherein inquiry regards itself as fallible and purposely tests itself and criticizes, corrects, and improves itself. See PRJN2.

29. With methodology independently validated by a survey expert, Petitioners' Nationwide

2019/2020 consumer product pilot survey produced an exceptional sample-rate across 95% of American states for this small population of interest, i.e., entirely unvaccinated, recording the medical diagnoses of 1,482 unvaccinated Americans, which through accepted standard statistical models, is evidenced as an extremely accurate representation of the health of all entirely unvaccinated Americans living in the USA during the survey period. The results tabulated are far more than statistically reliable and significant and they evidence that the fully unvaccinated (as a population cohort in America) are exponentially healthier than national published health statistics for the 99.74% vaccine-exposed American population. Therefore Petitioners respectfully submit that it is scientifically justified to verify, qualify, or disprove Petitioners' extraordinary initial pilot survey results by conducting an even larger scale definitive national survey.

30. In further support of Petitioners' *prima facie* showing that vaccination is far more than just a likely suspect in the National Health Pandemic, Petitioners will refer to their Requests for Judicial Notice of authoritative scientific study evidence of unvaccinated populations consistent with Petitioners' initial pilot survey results, such as the Mogensen study by Dr. Peter Aaby that emphasizes the need for further and authoritative survey and study:

> This Mogensen Study in 2017 followed over 1,000 children, comparing an unvaccinated control group to a second group that received polio and DTP vaccines. With a 95% confidence interval, the study results showed mortality was five times higher for vaccinated children than for unvaccinated children. See PRJN1. *Dr. Peter Aaby et al.*, "All currently

> available evidence suggests that DTP vaccine may kill more children from other causes than it saves from diphtheria, tetanus or pertussis." Mogensen, S.W., et al., The Introduction of Diphtheria-Tetanus-Pertussis and Oral Polio Vaccine Among Young Infants in an Urban African Community: A Natural Experiment, EBioMedicine (2017), http://dx.doi.org/10.1016/j.ebiom.2017.01.041

31. As control group members, Petitioners have reviewed scientific papers such as the Mogensen study, which has contributed in various measures to their known and admitted potential 'bias' that naturally acquired immunity to infectious disease is biologically superior to vaccine-induced antibody production whereby antibodies provide pharmacological evidence of immunity. Therefore to reduce the impact of such potential bias in this case, Petitioners have structured this Petition and request for relief around the four judicially noticeable facts above in para. 24, which are based entirely upon published scientific consensus documents that are 100% independent of Petitioners' potential bias, as the documents were prepared wholly independently of Petitioners and are sources relied upon and cited by federal public health authorities, including the United States Centers for Disease Control (CDC). Additionally, the Petitioners' evidence showing the health of the entirely unvaccinated controls and the like, are matters of fact to be determined by a jury.

III. Imminent National Security Threat: Unavoidably Unsafe Vaccination With Liability Upon The Federal Government Creates A National Security Issue of Bankruptcy

32. Without a suspension of the National Childhood Vaccine Injury Act of 1986 (NCVIA), which shifted civil liability for injuries caused by vaccines from pharmaceutical companies to the Federal government who recommends vaccines, the Federal government is at serious risk of bankruptcy. See e.g., 42 USCS § 300aa-22 ("No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after the effective date of this part [effective Oct. 1, 1988] if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings."); 42 USCS § 300aa *et seq.,* codifying the scheme for the Federal government to be responsible for paying compensation to vaccine injury victims. States also have various laws providing legal immunity to pharmaceutical companies causing vaccine injury, but States have retained their sovereign immunity and are therefore not carrying the same risk as the Federal government. In the words of the late Justice Antonin Scalia in the opinion of *Bruesewitz v. Wyeth*:

> "Design defects, in contrast, do not merit a single mention in the NCVIA or the FDA's regulations. Indeed, the FDA has never even spelled out in regulations the criteria it uses to decide whether a vaccine is safe and effective for its intended use. And the decision is surely not an easy one. Drug manufacturers often could trade a little less efficacy for a little more safety, but the safest design is not always the best one. Striking the right balance between safety and efficacy

> is especially difficult with respect to vaccines, which affect public as well as individual health. Yet the Act, which in every other respect micromanages manufacturers, is silent on how to evaluate competing designs. Are manufacturers liable only for failing to employ an alternative design that the FDA has approved for distribution (an approval it takes years to obtain)? Or does it suffice that a vaccine design has been approved in other countries? Or could there be liability for failure to use a design that exists only in a lab? Neither the Act nor the FDA regulations provide an answer, leaving the universe of alternative designs to be limited only by an expert's imagination."
> *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 237-38 (2011)

33. Given the extensive harm which the Petitioners' evidence shows is caused by mass vaccination programs in the USA, and if the Petitioners' requested nationwide survey only further confirms this evidence, the potential liability to the federal government under the NCVIA may rise into tens of trillions of dollars, further emphasizing the national security nature of the Predicament and this case. It is a political question and therefore not the subject of this action whether a national security solution may include the restoration of sovereign immunity to protect the continuity of the United States government. It is also a political question and therefore not the subject of this action whether the President may exercise his reasonable discretion under Article 2, Section 3 to recommend appropriate measures to Congress in relation to the NCVIA, such as an ex post facto law withdrawing civil liability

immunity for vaccine manufacturers in order to remove obstacles to compensation for vaccine injury victims, including statutory limitations tolling for victims who have not yet reached the age of 18 years. This portion of the predicament can be described as a storm about to hit our shores. If the American people are freed to assert their rights *as against the actual culprit*, this storm can be guided to the proper shores.

34. The suspension of laws which are currently *protecting* those who conduct medical experimentation without informed consent are obviously within the powers of the executive branch during a National Emergency. It is within the President's reasonable discretion to suspend the enforcement of laws which imminently threaten to decimate the American population, and which imminently threaten to take the entire Nation down as a consequence.

35. Vaccine supply chains are fundamentally global in character, and are especially dependent upon Communist China, also presenting complex webs of national security concerns. Petitioners refer to their Request for Judicial Notice Appendix Three ("PRJN3").

IV. PARTIES

Petitioners

36. Petitioner Joy Garner ("Joy Garner") is a scientifically-minded patriotic American from a United States of America military family. She is a technology inventor and patent-holder. Joy Garner is domiciled in Roseville, California, which is located in Placer County, CA.

37. Joy Garner founded and operates The Control Group ("TCG"), a not-for-profit organization that surveys unvaccinated individuals for the

purpose of this litigation to numerically quantify their already professionally-diagnosed medical and other conditions. On American Independence Day, July 4, 2020, TCG completed its tabulation of the results to date from its nationwide pilot survey of 1,482 completely unvaccinated Americans ("TCG American Survey") across 48 American states, of all ages, which survey results were independently validated by a survey expert. Due to the small size of the population of interest, the sample rate for this study already far exceeds those of typical nationwide health surveys conducted, and relied upon, by our government health agencies.

38. This dataset produced a 99% confidence in an interval with less than 0.04% variance for accuracy. The cohort comparisons between the health outcomes in the 99% vaccine-exposed American population and these unvaccinated controls exposed that there is higher than a 1 in 84 Sexvigintillion (82 decimals) odds *against* the innocence of vaccines as the cause for the excess health injuries observed in the vaccine-exposed population. Further, the survey expert compared TCG American Survey results to the national health data that is the subject of Petitioners' Requests for Judicial Notice. The survey expert found vaccine exposure to be the most likely culprit in the National Health Pandemic. The survey expert has recommended further study in the form a nationwide health survey of unvaccinated Americans for further confirmation and to *properly* inform public health policy in America, as it relates to vaccination.

39. Petitioner Joy Garner presents reliable evidence herein showing that the risks of vaccination far exceed any claimed benefits as it relates to both public health concerns, and within the context of what any individual would consider a reasonable

risk/benefit evaluation. Petitioner Joy Garner pleads for relief, in that she, her family, and her fellow Americans should now be freed from all forms of discrimination within the USA as a consequence of their choice *not* to submit to a 60% risk of immune-mediated chronic illnesses, and/or debilitating and deadly conditions into adulthood, due to vaccine exposure.

40. Petitioner Joy Elisse Garner ("Elisse Garner") and Petitioner Evan Glasco ("Evan Glasco") are scientifically-minded patriotic Americans from United States of America military families. Elisse Garner and Evan Glasco are domiciled in Grass Valley, California, which is located in Nevada County. Elisse Garner is the mother of her minor children J.S. and F.G. (collectively "Elisse's children"), who are participants in the TCG American Survey. Evan Glasco is the father of F.G. Joy Garner is the grandmother of Elisse's children. Joy Garner routinely assists with caring for Elisse's children while Elisse Garner and Evan Glasco work and attend appointments. Joy Garner is also the backup legal guardian designated for Elisse's children if needed.

A. Healthy. J.S. and F.G. are completely and extraordinarily healthy. Both children are supported by their primary care physician (a licensed California medical doctor) who not only supports the family's health choices, but champions those choices for the well-being of the children. J.S. and F.G. consistently meet good fitness marks for height, weight, and strength. Everyone in the Glasco family is very hygienic.

B. Uncorrupted. J.S. was born in a hospital and received a Vitamin K shot but no vaccinations. J.S. had adverse reactions to

the Vitamin K shot, but has since recovered via natural healing. F.G. is a toddler who was born via natural birthing methods and received no medical interventions (i.e., no Vitamin K shot or vaccinations). Both children have never had any pharmaceutical drugs or biologics of any kind whatsoever (save for J.S.'s one Vitamin K shot referenced above). Rather, the Glasco family choose natural remedies rather than pharmaceutical drugs.

C. All American Athlete. J.S. is an exceptional athlete, especially in dance and gymnastics where she has won multiple awards.

D. Intelligent. J.S. is an accomplished student and has been selected to help tutor other students due to her academic excellence. Note that many of J.S.'s accomplishments were obtained before California eliminated non-medical vaccine exemptions. F.G.'s strong mental acumen is already prominent even at his young age.

E. Personality. J.S. is ethical and honest. She is very confident, sociable, and articulate. She is clever and has a great sense of humor. She has a good reputation among parents and children in the community for these character qualities.

F. Community. The Glasco Family lives in a neighborhood with a community park. J.S. and F.G. enjoy regularly play with the neighborhood children.

G. Christian. The Glasco family is Christian and Jewish. They pray to God together regularly. Elisse attended private Baptist school, and her faith in Jesus Christ is

absolutely central and essential to her spiritual and moral foundation. Elisse and Evan are religiously opposed to vaccines manufactured using aborted fetal cells.

H. Rights. Evan Glasco and Elisse Garner wish to exercise their panoply of Constitutional rights including fundamental Freedom of Religion and Due Process, especially to parent and raise their own child free from religious discrimination by the State. However, California's Health and Safety Code, Section 120325, et seq. (a mandatory vaccination law for schoolchildren) denies this right by prohibiting J.S. and F.G. from attending any public or private school in the State of California unless they first receive a myriad of pharmaceutical injections that would (1) eradicate the Glasco Family's religious beliefs that, for example, vaccines should not be manufactured utilizing cell lines from aborted human babies, and (2) categorically exclude J.S. and F.G. from participation in scientific control group survey/study of unvaccinated children. Children with religious opposition to vaccination are segregated in California schools, because they are required to be homeschooled. The Glasco family is strong and determined, but segregation has caused the Glasco family to experience sorrow that J.S. has been separated from her friends at school. J.S. would very much like the opportunity to attend school. The Glasco Family intends for J.S. and F.G. to continue to homeschool for the duration of this proceeding, thereby empowering the Executive to desegregate.

I. 13th Amendment: Elisse Garner and Evan Glasco are aware that the results of the Control Group study evidence massively increased risks for serious and deadly health conditions associated with vaccination. Because Elisse personally witnessed the TCG survey and study process, and also helped her mother Joy Garner in conducting the study, she is *keenly* aware that it does reflect the genuine truth of the matter, i.e., that vaccine exposure *dramatically* increases her own family's risks of health problems and injuries. Elisse is aware that, into adulthood, these risks include a 60% risk of chronic disease, including a 48% chance of heart disease, a 10% risk of diabetes, and many others, as well as the risks of severe physical and mental debilitation, and even the risk of death shortly after injection. To the extent that vaccines have not *otherwise* been studied for their long-term and cumulative effects, Elisse Garner and Evan Glasco fully understand that vaccines are in fact experimental at this time in the USA. Because their children are currently healthy and not in need of any "therapeutic" medical interventions, they know that the "therapeutic privilege" and/or other codified consent waivers applied to medical experimentation without informed consent (where vaccine approvals are given in the USA) cannot lawfully be applied *to them, or their children*. This couple specifically refuses to consent to their children, or themselves, serving as experimental medical subjects. Solely because they refuse to submit themselves or their children to serve

as subjects in medical experiments that carry <u>*obscenely*</u> high risks of health injury, they suffer discrimination, denying their children access to both public and private education, as well as the denial of access to certain professions for themselves, not only within the state of California, but in many of the most populated American states they might wish to move to in the future. Further, because this particular experiment (coerced mass vaccination) is conducted without the government having conducting an accurate accounting of its victims, i.e., no meaningful examination of the results, the petitioners assert there is no advancement of medical knowledge possible with which to justify its continuation, let alone any coercive demands that they or their children participate in it.

41. Petitioner Michael Harris ("Michael Harris") and Petitioner Nicole Harris ("Nicole Harris") are scientifically-minded patriotic Americans. Michael Harris is a United States Air Force veteran pilot with an electrical engineering degree. Michael Harris and Nicole Harris are the parents of S.H., a minor child and participant in the TCG American Survey. The Harris family is domiciled in Carlsbad, California, which is located in San Diego County. The Harris family are Christians, and their son S.H. has the following qualities that make him a top student and an excellent candidate to participate in scientific surveys and studies of unvaccinated individuals:

A. Healthy. S.H. is completely and extra-ordinarily healthy. He is supported by his primary care physician (a licensed California medical doctor) who not only supports the family's health choices for S.H., but

champions those choices for his well-being. S.H. consistently meets good fitness marks for height, weight, and strength. Everyone in the Harris family is very hygienic (i.e., organic soaps and detergents, special water filter for washing).

B. Uncorrupted. S.H. was born via natural birthing methods (water birth) and received no medical interventions (i.e., no Vitamin K shot). S.H. has never had any pharmaceutical drugs or biologics of any kind whatsoever. Rather, the types of natural remedies one would find from time-to-time in the Harris family home are organic Vitamin C and elderberry purchased at the local health food market. S.H. is completely unvaccinated.

C. All American Athlete. S.H. is an exceptional athlete, especially in baseball where he has twice earned the award for Most Valuable Player on his travelling team where he is a pitcher. S.H. is a team player as his coaches report that he helps raise the attitudes of his other teammates to do their best as well.

D. Intelligent. S.H. is an honors student (e.g., S.H. was classified by testers as gifted in 2nd grade, he passed the 400 club in math in 3rd grade before any other student, he has received multiple Dean's list principal awards, he routinely receives top scores on advanced tests; as a fourth grader he is already reading at approximately the 7th grade level; he is especially engaged and vibrant in building and engineering tasks). Note that many of these accomplishments

were obtained before California eliminated non-medical vaccine exemptions.

E. Personality. S.H. is friendly, kind, personable, and honest. He has a good reputation among parents and children in the community for these character qualities.

F. Community. The Harris Family lives in a neighborhood with an elementary and middle school (~.1 mile away) where there is a neighborhood park (green common area). S.H. regularly plays with the neighborhood children, where it is common for games and scrimmages to be played at the neighborhood school and park. S.H. also enjoys after school programs at local schools and churches, such as art, [Awana] bible study, and bible vacation school.

G. Christian. The Harris family is Christian. They pray to God together before dinner, to give thanks for God's blessings. They routinely attend Christian community functions and maintain Christian friendships. Michael's dad was a deacon in the Baptist church. Nicole attended Bethel Christian college. Faith in Jesus Christ is absolutely central and essential to the Harris family. They are all devoted Christians. On the basis of religion, Nicole has carried signs at the State capitol expressing her opposition to abortion, and Michael has also posted on social media regarding his Christian opposition to products manufactured using aborted fetal cells. S.H. in particular has read about vaccines and genetically modified organisms (GMOs) and has vocalized that genetics is God's province rather than man's to tinker away with. S.H. is informed that

certain vaccines (according to the product insert) were manufactured utilizing cell lines from aborted human babies. The Harris family is religiously opposed to vaccination for the following reasons, in their own words:

> "For religious reasons we are strongly opposed to vaccination. For example, the manufacturing of several vaccines required by California for school admission has involved aborted fetal cell lines. Our family is religiously opposed to abortion.
>
> "And we are concerned about the ingredients in all vaccines, including how species and toxins are mixed together for injection into God's creation, the human body. The bible instructs us to treat our bodies as clean vessels. Each body is a temple for the Holy Spirit, and our fellowship as followers of Christ is deeply meaningful. See e.g., 1 John 2:27; 1 Corinthians 6:19; Deuteronomy 14:21; Genesis 9:4.
>
> "The bible further confirms that when our religious faith and conviction contradict human rules, we must obey God first. See e.g., Daniel 3:13; Gospel of Mark 12:17."

H. Rights. Michael and Nicole Harris wish to exercise their panoply of Constitutional rights including fundamental Freedom of Religion and Due Process, especially to

parent and raise their own child free from religious discrimination by the State. However, California's Health and Safety Code, Section 120325, et seq. (a mandatory vaccination law for schoolchildren) denies this right by prohibiting S.H. from attending any public or private school in the State of California unless S.H. first receives a myriad of pharmaceutical injections that would (1) eradicate the Harris Family's religious beliefs that, for example, vaccines should not be manufactured utilizing cell lines from aborted human babies, and (2) categorically exclude S.H. from participation in scientific control group survey/study of unvaccinated children. In late 2019 after the passage of the most current amendment to California's mandatory vaccine law, California Senator John Moorlach requested an oral opinion from California legislative counsel on the scope and penalties of the mandatory vaccine law in California. Via Senator Moorlach's Chief of Staff, the Harris family was advised of Legislative Counsel's oral opinion that if a private school were to accept a religious exemption to vaccination, then the State may be able to obtain a 'writ of mandate' to compel compliance with the State law. Children with religious opposition to vaccination are segregated in California schools, because they are required to be home-schooled. The Harris family is strong and determined, but segregation has caused the Harris family to experience sadness that S.H. has been separated from his friends at school. S.H. would very much like the opportunity to attend school. The Harris

Family intends for S.H. to continue to homeschool for the duration of this proceeding, thereby empowering the Executive to desegregate.

42. Petitioner Traci Music ("Traci Music") is the parent of K.M., a minor child. Traci's husband, the father of K.M., is an officer in the United States military. The Music family is domiciled in Alabama, but may be transferred to another U.S. State during the pendency of this proceeding. Tracy Music has two other minor children J.S. and S.S. K.M. and J.S. are both unvaccinated participants in the TCG American Survey; however, their survey forms were submitted after the survey cutoff date for the original data analysis. S.S. is ineligible to participate in the TCG American Survey because she was vaccinated multiple times at an early age. S.S. suffered multiple injuries as a result of vaccination, including legal blindness in her left eye, and partial deafness. J.S. has the following qualities that make him an excellent candidate to participate in scientific surveys and studies of unvaccinated individuals:

A. Healthy. J.S. is very healthy and has never been diagnosed with any health issues, save for a minor and temporary rash that cleared up almost immediately. He has a primary care physician who supports the Music Family's health choices. J.S. consistently meets good fitness marks for height, weight, and strength. Everyone in the Music family is very hygienic.

B. Uncorrupted. J.S. was born in a hospital setting and received no medical interventions (i.e., no Vitamin K shot). J.S. has never had any pharmaceutical drugs or biologics of any kind whatsoever, with the exception of one round of antibiotics at a young age. The

Music Family strongly prefers natural remedies.

C. Athletics. J.S. is an excellent athlete (basketball, baseball, soccer, football, wrestling) who has won multiple awards.

D. Intelligent. J.S. is a good student who has excelled in academic achievement tests (especially mathematics).

E. Personality. J.S. is outgoing, sociable, confident, likeable, and honest. He has a good reputation among parents and children in the community for these character qualities.

F. Community. J.S. likes to travel around the neighborhood and meet with friends, including going to local parks.

G. Religion. Traci Music had an orthodox Jewish upbringing. She has routinely asserted religious exemption to vaccination for her children on the basis of her beliefs (in her own words), "the body is a temple" and "let go, and let God". Traci trusts God to provide health and healing, rather than trusting pharmaceutical companies to play god with her children's health. Traci has a religious objection to the use of aborted fetal cell lines in vaccine manufacturing. In her own words, the vaccine is "contaminated" by its reliance on abortion for manufacturing.

H. Rights. The Music Family wish to exercise Constitutional rights to fundamental Freedom of Religion and Due Process, including especially to parent and raise their own children free from religious discrimination by the States. However, given the Music family's active military status requiring Traci's husband to immediately transfer the family residence periodically among several

US States, the Music Family remains in a constant state of uncertainty whether they will find themselves unexpectedly and unpredictably in a State that does not respect their Constitutional rights to religious exemption to vaccination at any particular moment in time.

I. Homeschool. The Music family currently homeschools but would like the opportunity for all of their children to attend school. The Music Family intends for their children to continue to homeschool for the duration of this proceeding, thereby empowering the Executive to desegregate.

J. Extreme pressure to vaccinate. When Traci Music's daughter S.S. was approximately 1-year old, Traci Music suffered extreme pressure by their pediatrician to vaccinate S.S. with multiple vaccines at once. For example, the pediatrician falsely claimed that he had personally observed hundreds of child deaths caused by measles, and the pediatrician threatened to contact Arizona Child Protective Services to take away Traci Music's children if she did not comply with the pediatrician's dictates to vaccinate. As a young mother, Traci Music did not know her legal rights and felt coerced by the authority figure (pediatrician) to vaccinate. As a result, S.S. received multiple vaccines, including for example MMR and DTaP, resulting in the aforementioned permanent vaccine injuries to S.S.

K. Traumatic Discrimination. Approximately 3-years ago while stationed at Fort Bragg, North Carolina, Traci Music was the subject of an anonymous complaint to North

Carolina Child Protective Services (CPS) where the sole and exclusive basis of the anonymous complaint was that Traci Music was homeschooling and did not vaccinate her children. CPS showed up unexpectedly at Traci's home while she was alone (her husband was stationed overseas for military service). Traci was naturally frightened as CPS demanded to enter the house and for the children to remove articles of their clothing so CPS could physically examine the children. At the conclusion of this traumatic experience for both Traci Music and her children, Traci Music was informed by CPS that it was actually not an offense for her to homeschool the children, nor was it an offense for the children to remain unvaccinated, but that CPS was simply "doing its job" because "we have to investigate all complaints".

L. Candidate. K.M. is an unvaccinated baby who was born at home (home birth). Like his brother, K.M. is also an excellent candidate to participate in scientific surveys and studies of unvaccinated individuals.

Respondent

43. Respondent is the President of the United States of America and therefore Commander in Chief of the Armed Forces. He is named here exclusively in his official capacity. In that capacity, he alone (or the Federal Court issuing an order in respect of him) has the national security authority to issue all of the relief requested in this action, to issue an Order, without limiting his ability to determine in good faith how he might comply, to:

A. Declare as a matter of national security a National Health Emergency (hereinafter "Emergency");
B. Order a suspension (hereinafter "Suspension") for up to two years of all vaccine mandates and coercions (hereinafter "Vaccine Mandates") throughout the United States of America; and
C. Order a targeted National Health Survey of a very large group of unvaccinated Americans to compare the health of such unvaccinated individuals to national health data on the American population (hereinafter "Survey").

National Security Request For Constitutional Relief

44. This requested Order for national security purposes is necessary to uphold protections guaranteed in the Constitution for the United States of America afforded to individuals exercising their Constitutional right to remain unvaccinated, not the least of which, is the right to life, liberty, and the pursuit of happiness. Petitioners assert that the government's promise of a vaccine-exposed future that carries a 60% chance of chronic health conditions (on a trajectory that is increasing), most of which prove ultimately deadly, is a theft of their right to pursue happiness. Petitioners therefore ask the Court for a Judgment in Petitioners' favor that Declaratory and Injunctive Relief is necessary since the President has not yet fulfilled his duties required by the Constitution for the United States of America and his Oath of Office to faithfully execute the laws of the United States of America (as herein alleged).

45. The President inherits innumerable policies from previous administrations ("Predecessors"),

including vaccination policies. The President has not been afforded the opportunity to objectively analyze the Nation's vaccination policies due to the judicially noticeable fact number three stated above in paragraph 24c:

> **"Numerically Undefined.** "The United States government has never publicly evaluated vaccines numerically for long-term or cumulative health risks, in comparison to a large group of fully unvaccinated individuals."

46. On February 18, 2017, within 30 days of taking Office, President Donald J. Trump tweeted, "I inherited a MESS and am in the process of fixing it." Nearly two years later he tweeted he was still, "cleaning up the mess [he] inherited." The Predicament is part of the mess the President inherits.

47. The President has not had, nor taken, the time to assess and address long-term, cumulative health damages of vaccines on Americans. No government survey has been taken and no study has been conducted on the health of a very large number of unvaccinated Americans. This scientific vacuum amounts to nothing short of an ongoing human medical experiment that has no chance of advancing medical knowledge concerning the risks of vaccination, and accompanying long-term effects on public health.

48. The President inherits the Predicament, and has not yet ordered a Suspension and a Survey to address it, such as by comparing the "unavoidable injury and death" associated with the administration of a vaccine and conducting a scientific risk to benefit ratio evaluation.

49. Even though the President's Predecessors did not remedy the Predicament, the duty now falls upon the President to issue an Order to save the country. For example, the President has reasonable executive discretion:

- **A.** To select the reasonable manner of enforcing the Constitution for the United States of America, including enforcing federal civil rights protections for unvaccinated individuals who have been segregated out of the military, schools, and workplaces.
- **B.** To proactively desegregate the military, as well as schools and workplaces receiving Federal funding or Federal contracts.
- **C.** To declare that separate is not equal when the vaccinated and unvaccinated are forcibly separated in American society.
- **D.** To declare that for the surveying of unvaccinated individuals to be conducted scientifically and without fear of retribution, an unvaccinated control group must remain intact and remain free from discrimination with respect to their military service, education, livelihood, travel, and religious freedom.

As set forth herein, it is an ongoing unreasonable abuse of discretion for the President to neglect the scientific method that requires true control groups (of entirely unvaccinated individuals as the controls) able to numerically confirm vaccine risk and therefore save this Nation from imminent collapse. References in this Verified Petition to the President's duty to exercise his reasonable discretion shall not be interpreted to suggest that rational basis review of that discretion is appropriate. To the contrary, the material infringements upon Petitioners' fundamental rights, as alleged herein, necessitates strict

scrutiny of the President's reasonable discretion (such that reasonable discretion refers to a compelling reason). There is no compelling reason the President is neglecting the scientific method. Nor is neglecting the scientific method a narrowly tailored means to achieving a compelling government interest. In this case, strict scrutiny requires, among other important inquiries, an acknowledgment that the scientific method requires true control groups (of entirely unvaccinated individuals as the controls) able to numerically confirm vaccine risk and therefore save this Nation from imminent collapse.

50. The four judicially noticeable facts in paragraph 24 above prove that the very survival of this Nation is in jeopardy if the President declines to exercise his reasonable discretion to the best of his ability, and therefore, Petitioners request relief under the President's nondiscretionary duty to ensure the survival of the Nation. The context of such nondiscretionary duty is qualified by Article II, section 8, of the Constitution for the United States of America: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution for the United States."

51. Petitioners are intentionally requesting relief of a fundamental constitutional nature, and exclusively requesting that relief from this Court in respect of the President as President of the United States of America and as Commander in Chief of the Armed Forces. Petitioners are intentionally not requesting relief from any agencies beneath the President, nor are any agencies beneath the President able to provide the fundamental relief requested due to the national security emergency proven by the four judicially noticeable facts.

Petitioners request no statutory relief or regulatory relief whatsoever, and indeed to even attempt to petition for same would fruitlessly splinter the case and make the requested relief impossible, as conflicting court orders could be issued in differing jurisdictions among a patchwork of ever-evolving statutes, rules, and regulations that both perpetuate and conceal the National Health Pandemic. The root, branches, leaves, and fruit of this case are entirely constitutional.

52. Petitioners specifically do not seek relief from agencies such as Health and Human Services, Food and Drug Administration, Centers for Disease Control, etc. (hereinafter "Subordinate Executive Agencies") because government agencies are categorically unable to perform the relief requested in this case to save the Nation and safeguard Petitioners' Constitutional rights in the context of national security. Subordinate Executive Agencies are vigorously involved in vaccine licensing, recommendation, promotion, and product sales.

A. As one example, CDC recommended vaccine schedules are recommended rather than mandated, so the Subordinate Executive Agencies are not the only cause of, and cannot offer relief to end this National Health Epidemic, nor solve the Predicament. The State and local governments who interface with such federal licensing, recommendation, promotion, and product sales participate in their own ever-changing patchwork of mandates and coercion techniques. Any attempt by Petitioners to obtain national security relief from State and local authorities would be impossible for both practical and jurisdictional reasons.

B. As a second example, the Secretary of the HHS is one of Respondent's Subordinate Executive Agencies. Such Secretary was and is required to form a task force and report to Congress every two years on the advancements and improvements in research on vaccines, in order to reduce the risks of adverse reactions to vaccines. 42 U.S. Code § 300aa–27 (a) (2). A stipulated order entered July 9, 2018 in the United States District Court (Southern District of New York) evidences that HHS has no evidence that the Secretary completed any of the 16 reports, bi-annually pursuant to U.S. Code § 300aa–27(c) ("Report Within 2 years after December 22, 1987, and periodically thereafter ...") See PRJN2, section 37. Even if the Secretary had complied with the law and reported to Congress, it would still be impossible for the Secretary or Congress to order the national security relief requested in this action while simultaneously managing the foreign affairs necessary to preserve the Nation.

53. The President is the Chief Executive of the Subordinate Executive Agencies that are vigorously involved in the Predicament. State and their local health agencies adapt and require federally approved public health policies ("Policy") to be mandated (hereinafter "Govt. Mandates"). Govt. Mandates are the final expression of federally approved public health policies which together contribute to the Pandemic.

V. JURISDICTION AND VENUE

54. This Court has subject matter jurisdiction under the Constitution for the United States of

America, and also incidentally under 28 U.S.C. §§ 1331 and 1343(a)(3) so the Court may preside over Petitioners' claims under the Constitution for the United States of America. The Court has additional remedial authority under 28 U.S.C. §§ 2201(a) and 2202.

55. Diversity of Citizenship exists and Venue in the Eastern District of California is proper.

56. This action arises under those specific aspects of the oath of office in Article II, Section 1, of the Constitution for the United States of America, which aspects are not political questions, but rather which are necessary to ensure the very survival of the Nation itself during an emergency: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution for the United States of America." Petitioners do not seek justiciability over any political questions reserved to the President, but rather Petitioners assert justiciability with respect to the Court's fundamental power under Article III of the Constitution for the United States of America, to act as an intermediary between the President of the United States of America and the people of the United States of America, on the specific issues of declaratory and injunctive relief requested in this case due to the imminent national security emergency. There is no matter more important to ensure the survival of the country as important as the future of the health of the population. Respondent (and this Court in respect of him) has the power and duty to recognize this fact and protect the nation.

A. As stated by Justice Thomas (concurring) in *Gamble v. United States*, 139 S. Ct. 1960, 1985 (2019):

"The Constitution's supremacy is also reflected in its requirement that all judicial officers… take an oath to 'support this Constitution.' Art. VI, cl. 3; see also Art. II, §1, cl. 8 (requiring the President to 'solemnly swear (or affirm)' to 'preserve, protect and defend the Constitution for the United States'). Notably, the Constitution does not mandate that judicial officers swear to uphold judicial precedents. And the Court has long recognized the supremacy of the Constitution with respect to executive action and 'legislative act[s] repugnant to' it. *Marbury*, 1 Cranch, at 177; *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579, 587-589, 72 S. Ct. 863, 96 L. Ed. 1153, 62 Ohio Law Abs. 417 (1952); see also The Federalist No. 78, at 467 ('No legislative act, therefore, contrary to the Constitution, can be valid')."

B. In the seminal case of *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177-78, 180 (1803) our ship set course, and we faithfully stay this course today:

"It is emphatically the province and duty of the judicial department to say what the law is…. The judicial power of the United States is extended to all cases arising under the constitution….Thus, the particular phraseology of the Constitution for the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that

a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument."

C. As the 9th Circuit Court stated in *Juliana v. United States*, 947 F.3d 1159, 1178-79 (9th Cir. 2020),

"The Constitution's structure reflects this perpetuity principle. See Alden v. Maine, 527 U.S. 706, 713, 119 S. Ct. 2240, 144 L. Ed. 2d 636 (1999) (examining how "[v]arious textual provisions of the Constitution assume" a structural principle). In taking the Presidential Oath, the Executive must vow to "preserve, protect and defend the Constitution for the United States," U.S. Const. art. II, § 1, cl. 8, and the Take Care Clause obliges the President to "take Care that the Laws be faithfully executed," U.S. Const. art. II, § 3. Likewise, though generally not separately enforceable, Article IV, Section 4 provides that the "United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and ... against domestic Violence." U.S. Const. art. IV, § 4; see also New York v. United States, 505 U.S. 144, 184-85, 112 S. Ct. 2408, 120 L. Ed. 2d 120 (1992). Faced with the South's secession, President Lincoln reaffirmed that the Constitution did not countenance its own destruction. "[T]he Union of these States

> is perpetual[,]" he reasoned in his First Inaugural Address, because "[p]erpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination." President Abraham Lincoln, First Inaugural Address (Mar. 4, 1861)."

57. The Constitutional context for this action is framed by the Petitioners' rights recognized by the following provisions of the Constitution for the United States of America, as Petitioners assert:

- **A.** Freedom of Religion Clause of the First Amendment, upholding the fundamental right of an individual to the free exercise of religion in medical decision making;
- **B.** Due Process Clause of the Fifth Amendment, upholding the fundamental right of an individual to personal bodily integrity in medical decision making, and freedom from government-created danger;
- **C.** Privacy Clause of the Fourth Amendment, respecting the fundamental right of an individual zone of privacy in human autonomy necessary to medical decision making;
- **D.** Cruel and Unusual punishment of the Eight Amendment, prohibiting cruel and unusual punishment in the form of mandatory medical experimentation;
- **E.** Prohibition of Involuntary Servitude Clause of the Thirteenth Amendment, upholding the fundamental right of an individual to be free from forced and coerced participation in a national program involving medical decision

making, and servitude as experimental medical subjects;

F. Equal Protection of the Laws Clause of the Fourteenth Amendment, upholding the fundamental right of an individual to the equal protection of the laws in such manner to prohibit segregation of American society based upon individual exercise of freedom of religion in medical decision making;

G. Incorporation Clause of the Fourteenth Amendment, prohibiting States and local authorities from impermissibly infringing upon the above-referenced fundamental rights;

H. Rights Retained Clause of the Ninth Amendment, upholding the absolute right of the Citizen to remain peacefully natural; and

I. Powers Reserved Clause of the Tenth Amendment, reserving undelegated medical decision making powers to each Citizen.

58. Venue is proper under 28 U.S.C. § 1391 and Local Rule 120 (Fed. R. Civ. P. 3), because Respondent is the President of the United States, the Commander in Chief of the Armed Forces.

59. Venue is proper in the Eastern District of California pursuant to 28 U.S.C. §§ 84(b) and 1391(e) because this is a civil action in which Respondent is an officer, the chief executive, of the United States, and a substantial part of the events or omissions giving rise to this action occurred in the Eastern District of California, and, further, because the majority of Petitioners are domiciled in this District and no real property is involved in the action.

60. Petitioners have standing to bring this Constitutional claim for declaratory and injunctive relief because Petitioners have suffered actual and threatened injury to their herein-identified

Constitutional rights, suffered as a result of the Predicament, which can fairly be redressed by a favorable decision. There exists an actual and justiciable controversy between Petitioners and Respondent requiring resolution by this Court. Petitioners have no other adequate remedy at law.

61. Only Respondent as President of the United States of America and Commander in Chief of the Armed Forces (and this Court in respect of him) has the authority to protect Petitioners from the myriad and ever-shifting initiatives to vaccinate every individual in America as much as possible, which initiatives have stoked hatred and vilification of unvaccinated Americans. See PRJN2. By promoting and supporting mass vaccination programs, including but not limited to the annual influenza vaccine program, and Covid-19 vaccination, Respondent has emboldened Subordinate Executive Agencies to exacerbate the Predicament.

VI. CONCRETE AND PARTICULARIZED INJURIES IN FACT

62. Petitioners have experienced concrete and particularized injuries-in-fact that are both actual and imminent. The actual injuries include: (a) unconstitutional segregation and unmitigated coercion based on their Constitutional exercise of medical decision making and freedom of religion, (b) the Petitioners' absolute right to refuse to serve as subjects to medical experiments which are known to be dangerous and even life-threatening and to be free of discrimination for exercising this right (c) mathematically recognizable erosion of their nation's security due to the undeclared emergency nature of the National Health Pandemic of chronic diseases and injuries that are the result of injured and

dysfunctional immune systems. The imminent injuries include: (a) the certain and palpable threat of mandatory vaccination during perceived public health emergencies even if those 'emergencies' later proven to be driven by public fear rather than mathematical facts, and (b) the mathematically proven imminent dissolution of America from within, which is proven even by conservatively modelling a continuation of America's current and increasing rates of chronic diseases, disabilities, and injuries that are the result of injured and dysfunctional immune systems.

63. Respondent's oversight (in the contronymical sense of the word, hereafter "Oversight") to protect Petitioners as unvaccinated Americans is the actual and proximate cause of Petitioners' present and imminent injuries as well as Petitioners' requested remedy as alleged herein.

64. Petitioners, through the foregoing incorporated Requests for Judicial Notice, have established conclusively with judicially noticeable facts that a National Health Pandemic exists and will continue to worsen if unabated by deployment of the scientific method and correct application to the facts to issues of public health.

A. Respondent's continued inaction will cause immediate and irreparable harm to Petitioners if they are not protected from coerced vaccination through discrimination, and if the root cause of the National Health Pandemic is not confirmed and thereafter immediately halted. And, infringements on Petitioners' livelihood, bodily integrity, and other fundamental rights guaranteed by the U.S. Constitution are certain, irreparable, and imminent;

B. Petitioners' Requests for Judicial Notice show a substantial likelihood of Petitioners prevailing at trial;

C. The lack of issuance of injunctive relief would cause substantial harm to Petitioners and other Americans affected by the national security matter. It will cause no harm to Respondent other than to require him to fulfill his pre-existing legal duties; and,

D. The public interest will be served by the Court enjoining Respondent to issue the Order (or issuing a court order in respect of him) for the very survival of America by granting injunctive relief.

65. As further evidence of the concrete and particularized injuries-in-fact that are both actual and imminent in this case, Petitioners have experienced aspects of the Predicament in the emergence of Covid-19 from China. As communist-style dictates continue to be employed throughout portions of the world, the United States has not remained unaffected. Mandatory vaccination is already being publicly supported by certain authorities within and without the United States of America even though a Covid-19 vaccine has not even progressed through minimal safety and efficacy testing. Petitioners state this allegation not to target any particular State or local rule within the greater Predicament, but rather to evidence the Predicament includes the actual and imminent nature of the national security threats of a mandatory Covid-19 vaccination in response to the Chinese virus. Respondent has not abated these threats, but rather Respondent has emboldened them by actively promoting Covid-19 vaccination without providing the Suspension of vaccine mandates or similar order to safeguard the Nation from the loss of critical

scientific evidence. Safeguarding this critical and swiftly-dwindling evidence, (the truly unexposed scientific controls) is imperative to safeguarding this Nation from ultimate collapse, if no person can be left free to protect themselves from coerced medical procedures (which the evidence here demonstrates is most likely responsible for the vast majority of the chronic health conditions and disabilities Americans are currently suffering). See e.g., Garner Declaration.

66. The failure of Respondent to protect a scientific control group of unvaccinated Americans causes irreparable harm to Petitioners. The ongoing destruction of critical scientific evidence is an irreparable harm, as evidence must be preserved and observed for national security. The evidence shows vaccines are responsible for the vast majority of chronic illnesses suffered by Americans today, and it shows that vaccines are the single most serious public health threat this Nation has ever faced.

67. Institutions profiting from vaccinations argue for the immediate elimination/destruction of *all* remaining vital evidence (controls). This evidence is imperative to further confirmation of the extent to which vaccines threaten the very survival of our Nation. This evidence is also imperative to determining whether vaccines can be partially exonerated in any numerical measure. The TCG American Survey is one such example of a scientific pilot control directly and imminently harmed by the elimination/destruction of the remaining vital evidence (controls). Once unvaccinated controls have actually been studied, and only if vaccines are exonerated, can institutions profiting from vaccinations reasonably argue against the preservation of this evidence, *not before*. Institutions profiting from vaccinations are currently arguing against employing the *scientific method* to determine

whether or not vaccines are now maiming and killing more children than they *might* (hypothetically) be "saving". Petitioners demand an actual/factual body-count. It shocks the conscience that institutions profiting from vaccinations actively discourage surveying the health of the unvaccinated in order to avoid any comparison to the high number of vaccine-exposed children who are injured or disabled in some form.

68. Petitioners' publicly filed pleadings (together with Petitioners' publicly filed Requests for Judicial Notice) accomplishes the legal function of providing official public notice to the President of the government's own evidence supporting the judicially noticeable four facts justifying the declaratory and injunctive relief requested. Such notice is provided in a manner that the American public can also access the information in real time on PACER.

69. Petitioners request an Order upholding Americans' rights to refuse to subject themselves to living with (or dying from) a 60% chance of chronic illness. Petitioners' Pilot Survey evidence shows this is the risk within the 99.74% vaccine-exposed population, compared to the risk of only 5.97% if Americans avoid vaccines completely. And that 5.97% risk is even lower if Americans also avoid the K-shot and maternal vaccines, which expose developing fetuses to vaccines.

70. Petitioners also request an Order to prevent the destruction of critical scientific evidence that must be used to further confirm Petitioners' data, and thereby correctly inform public health policy in order to save this Nation from collapse which is inevitable if this ongoing catastrophic pandemic of immune-mediated chronic illnesses is not addressed and reversed. Clearly, with a 60% rate of chronic illness in our adult population (and considering the

steady increases/trajectory) it cannot be credibly argued that our current vaccine policies are in any way protecting or benefitting public health. See also Petitioners' expert declarations that the health risk of vaccination is exponentially greater than the health risk of being unvaccinated, which Petitioners are willing and able to bolster further with a fourth appendix request for judicial notice providing all the numerical proof for same according to the government's own numbers. Petitioners' numbers show that being unvaccinated in America today is the surest path to optimal health, natural immunity, and the greatest chance of survival, since it is well understood that the presence of numerous comorbidities, (which are common in the 99.74% vaccinated population) does shorten lives. Axiomatically, those who are mostly free of these conditions (the unvaccinated population) would be expected to have a higher survival rate.

VII. SURVEY AND STUDY

71. As requested, the President's Order for Suspension of Vaccine Mandates will allow time for the Survey, which could then be followed by a more comprehensive study concerning vaccine safety and efficacy (hereinafter "Study"). The Study does not require but would benefit from access to the Vaccine Safety Data Link ("VSDL") maintained by the CDC.

72. The requested Survey will further highlight and confirm the extent to which vaccines are causing a far greater danger to the United States than previously acknowledged.

73. For this more comprehensive Survey to be conducted scientifically, an unvaccinated control group must remain intact and be protected under the Constitution of the United States of America against

Vaccine Mandates. The control group must remain free from discrimination with respect to each individual's life, liberty, education, religion and livelihood. Discrimination reduces and threatens to eliminate desired unvaccinated candidates for the Survey. Petitioners allege that a rigorous and ethical scientific Survey is a mathematically necessary component in ending the National Health Pandemic, and is necessary for survival of the Nation. Under the current government scenario, no advancement of medical knowledge or science is possible. This is due to the over 99% failed accounting of the Vaccine Adverse Event Reporting System, which is equivalent to wearing a blindfold during the experiment.

74. Without the Order prohibiting all forms of discrimination based upon vaccination status, the control group population of unvaccinated Americans is imminently threatened (especially by myriad local health officials' unscientific overreaction to Covid-19) and may soon be reduced to statistically insignificant numbers, and/or to zero. This loss of evidence would represent a great and irreparable loss to our Nation. It is an essential function of the Article III Judiciary to preserve vital evidence necessary to the adjudication of relevant facts in this case. A recent example of the unscientific overreaction to Covid-19 is the veneer of campus-health protection recently stripped as the country embraces distance learning, while quizzically, vaccine mandates remain in full force. This clearly indicates the agenda is not related to the threat of a virus spreading inside of public schools.

75. As the Predicament worsens day-by-day, Petitioners will suffer great and irreparable loss if their personal health is compromised and the Nation is reduced to a vast majority of sick, [infertile], disabled, mentally-handicapped, and dying Citizens

who cannot work or contribute. This is, in fact, the trajectory the United States of America is on with immune-related diseases and disorders. There has never been an infectious disease that has debilitated, injured, or threatened this Nation's actual survival to the extent these immune system disorders currently do. See PRJN2. If this trajectory is not altered, in short order, there will be very few productive Americans left to pay the taxes required to support any branch of government. Pharma, and the governmental bodies that protect, cultivate, and expand its powers, have now outgrown the host. If these health injuries continue to devour the American people at the present rates, this Nation will collapse. Pharma can no longer be permitted to dictate public health policy.

VIII. POWER OF THE ARTICLE III JUDICIARY

76. Petitioners respectfully petition the Court for an exercise of its fundamental power under Article III of the Constitution, which provides: "The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution. ..." U.S. Const. Art. III, § 2, Cl. 1 (in pertinent part).

77. "While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (concurring opinion).

78. Courts retain the ability to enjoin the President even in situations where the President has broad discretion over an issue because "that

discretion is not boundless" and "may not transgress constitutional limitations." *Abourezk v. Reagan*, 785 F.2d 1043, 1061, 251 U.S. App. D.C. 355 (D.C. Cir. 1986). Further, it remains firmly "the duty of the courts, in cases properly before them, to say where th[e] ... constitutional boundaries lie." *Shreeve v. Obama*, No. 1:10-CV-71, 2010 U.S. Dist. LEXIS 118631 (E.D. Tenn. Nov. 4, 2010).

IX. VACCINE LICENSING AS THERAPEUTIC HUMAN EXPERIMENTATION

79. Petitioners specifically do not seek relief from Subordinate Executive Agencies such as the United States Food and Drug Administration (FDA), because Subordinate Executive Agencies are categorically unable to perform the national security relief requested in this case to save the Nation and safeguard the panoply of Petitioners' constitutional rights. Accordingly, this case is expressly not dependent upon vaccine licensing status, such as the following legal positions of Petitioners that are expressly omitted from this particular case in regards to relief (and lack thereof) from Subordinate Executive Agencies:

A. The FDA approves a vaccine after testing for *efficacy and short-term safety* by comparison to concurrently harmful and falsely labeled "placebos". Afterward, a vaccine is licensed as a biologic for general public use because of an FDA waiver/approval based upon a "therapeutic" privilege classification, whereby the FDA waiver/approval is deemed legal because the vaccine continues to be regulated by monitoring (i.e., post-market surveillance).

B. "Therapy" means to treat an *existing* disease or condition. By classifying vaccines as "therapeutic" the FDA has wrongly classified *all* Americans as diseased and needing "treatment". This classification does not alter the fact the drug is experimental. Thus, the FDA has stretched the definition of "therapeutic" to include "therapy" for perfectly healthy subjects. FDA has also conflated "treatment" with "prevention" to justify human medical experiments without informed consent for vaccination. But these words still carry their original meaning in a constitutional case. "Treatment" and "prevention" do not mean the same thing, no matter how the FDA classifies their approval of experimental medical products, the risks for which have never been established.

C. Myriad forms of vaccine human medical experimentation without informed consent are interpreted by the FDA to be 'legal' in the United States, so long as the FDA "approves" of the treatment and it is decided by unaccountable bureaucrats that thorough informed consent is unwarranted. And the FDA routinely *does* approve of human experimentation in this manner. Vaccine manufacturers concur with the FDA in this process.

D. The FDA has contorted their "therapeutic" benefit ("efficacy") into a preemptive justification for the "approval" of vaccinations under the abusive presumption all Americans who are not "up-to-date" on the CDC-recommended vaccines are currently diseased, and therefore all are in urgent need of the "therapeutic benefit" of vaccines. This

is how the FDA circumvents the need for any meaningful or enforceable "informed consent", and this is why a product that is legally classified as "unavoidably unsafe" is sold in the USA with the slogan "safe". It's a 'relatively safe' argument, that is only supported by numbers from the VAERS, which we know are *over 99% incorrect*. The VAERS' categorically false accounting supplies the "rare" slogan with regard to the frequency of vaccine injuries, which is then used to prop up the "relatively safe" slogan, which results in the fraudulent statement that vaccines are "safe". This is the level of so-called "informed consent" Americans have enjoyed during this ongoing medical experiment. It amounts to 'slogan science'.

E. Vaccines approved for public use have a pattern of remaining in Phase 4 FDA approval (monitoring) until eventually recalled or else phased out by new vaccines even more potent/dangerous/adjuvanted than the first.

F. Merely because the FDA has approved of a medical experiment being conducted does not eliminate Petitioners' absolute right to avoid participating in it. The FDA could issue every waiver they have and even travel to Edward Jenner's Temple of Vaccinia to pour "holy water" over their approval, (of human medical experiments *without* informed consent) but this does not change the fact that vaccination is experimental according to both common sense and the dictionary definition of the word. FDA approval of human experiments does not grant government authority to coerce healthy

individuals into participating in the experiment. Healthy individuals who are strangers to the parties wishing to include them in these experiments, do not provide for any "therapeutic privilege" claim or waiver in any Constitutional case. The FDA is not entitled to the same "therapeutic privilege" that a doctor may use in his defense after injuring a patient. The FDA is not the treating physician for all Americans who can claim to know that "full disclosure would be detrimental to a patient's total care and best interests". And further, no agency of any branch of the government can claim the right to coerce any citizen into participating in a medical experiment *merely* because the FDA has granted waivers to informed consent requirements. Such FDA waivers (of informed consent) and approvals for widespread medical experiments on the American population, has been taken by our legislative branch to mean they are now entitled to simply coerce all Americans into serving as experimental medical subjects. This action by the FDA leaves the "informed" portion of the issue entirely moot. The therapeutic privilege claim is intended as a *retrospective defense*, not a prospective method of waiving informed consent in human medical experiments. But even if the waiver did apply, FDA approval of an ongoing human medical experiment without informed consent does not deprive individuals of their absolute right to refuse to participate, and in so doing, it is entirely unconstitutional that such Citizens then be discriminated against and segregated.

G. As the FDA has no power to provide relief to Petitioners, Petitioners have no interest in entering this swamp maze or any other maze of what the FDA does or does not allow, or claim to allow, in FDA regulatory schemes. The relief requested in this case is urgent, and there is no adequate remedy available through addressing the myriad agencies, nor is an adequate remedy available in addressing any one state, county, or city government.

80. Petitioners suffer discrimination for refusal to submit to medical experiments; loss of nation, loss of their own bodies, and even their lives themselves, are at risk. The Survey is necessary to tally up the "sacrifices" Americans have already made with this "unavoidably unsafe" product, to determine if this Nation can survive much more of this "therapy", or whether we are better off taking our chances exercising our immune systems naturally with the likes of measles and chicken pox.

81. Americans who refuse to participate in the "FDA-approved" long-term human medical experiment of vaccination are not currently identified as a "protected class" of people. This lack of protected classification has contributed to rampant and increasing passage of coercive laws which do discriminate against Americans based solely upon their refusal to donate their bodies, or their children's bodies, to the "advancement" of human medical experimentation, which advancement is impossible in any case due to the failure to use the scientific method to examine the results of the experiment. See PRJN2. No public official or agency has the authority to thrust an unconstitutional condition upon Petitioners, whereby Petitioners are forced to forego one Constitutional right (e.g.,

informed refusal) in order to exercise another (e.g., the right to congregate in Christian fellowship at parochial school).

X. VACCINES AS BIOLOGICAL ALTERATION

82. Vaccines today are produced utilizing genetically modified ingredients, and using methods that can manipulate the human genome. Vaccine package inserts confirm that vaccines are untested in humans for carcinogenic and mutagenic potential, or for impairment of fertility. See PRJN2.

83. An example of vaccines as experimental biological alteration is the pharmaceutical industry's use of cancerous "immortal cell lines" in vaccines that are mandated upon the American public. The cell lines used in vaccines are cancerous because they are literally derived from cancerous tumors and have chromosomal abnormalities (mutations) that allow them to continually divide and spread throughout the host's body. Public health authorities recently decided to *begin* a purported "investigation" into whether or not a so-called "safer" method of cultivating disease-causing agents for the vaccine industry might be possible. This comes *after* billions of doses of these cancer-tumor cell lines ("immortal" cell lines) have *already* been injected into Americans. There is zero plan by public health authorities to halt the use of these experimental vaccines *while* they claim to "investigate" "safer" alternatives (to injecting millions of Americans with cancer tumor cells). This use of cancerous cell lines in vaccines amounts to a human experiment upon the American people, whereby Americans are permanently biologically altered without their knowledge or consent. Public health authorities continue to claim, without support of any numerical justification, that

injecting Americans with cancer is "worth the risks" because of the "therapeutic benefit" of the pharmaceutical company's "treatment". Petitioners' provide numerical proof that injecting Americans with cancer causes harm and is not beneficial to individuals and our Nation. Biological alteration via dangerous vaccines without numerical proof of safety does not promote a compelling government interest. Nor is the vaccine program narrowly tailored to meet a compelling government interest — vaccination is a one-size-fits-all biological alteration experiment upon the entire populace. Vaccination programs are also targeted to disparately impact protected classes, as public health authorities customize their advertising and distribution strategies based on such factors as race, religion, age, gender, and health conditions. A recent example of this protected class targeting is a document entitled Interim Framework for COVID-19 Vaccine Allocation and Distribution, which is cited by the CDC for its nationwide COVID-19 vaccine-allocation strategy. This report reveals that ethnic and racial minorities, those over sixty-five, and those who make up part of the "essential" workforce, are set to be the first to receive experimental COVID-19 vaccines. Public health authorities are engaged in a pattern and practice of targeting protected classes who demonstrate what they label "vaccine hesitancy", for the purpose of eliminating distinctions among Americans with regard to vaccination uptake.

XI. PUBLIC HEALTH AUTHORITIES CLAIM THEY DO NOT KNOW THE CAUSE OF THE CHRONIC ILLNESS PANDEMIC

84. Public health authorities consistently claim they've *no idea* what's actually responsible for all of

these *immune system* related disorders, disabilities, diseases, and deaths, of which our National non-infectious National Health Pandemic is comprised. Similar to pleading the 5th, they only obfuscate the problem by repeating their myriad vague suggestions that 'unidentified environmental factors' and/or 'genetic factors' are the likely causes. Intentionally wearing a blindfold to the single *most obvious cause* does not qualify as 'science'. These authorities are engaged in a pattern and practice of omitting any reference to vaccination as the leading environmental factor which *is engineered to alter the human immune system*. Likewise, the same pattern and practice is championed by 'nonprofit' organizations who gain billions of dollars annually to perpetually study anything *but* vaccination as a possible cause of immune-system disorders.

XII. SURVEY AND STUDY ETHICS

85. The generally accepted standard of care throughout the Nation requires doctors to physically examine a patient and review a detailed personal and family medical history prior to informed consent in vaccination. And yet, this ethical requirement, to evaluate the risk/benefit ratio of vaccination *before* injection, has never *once* been recognized by any doctor, nurse, or pharmacist. It could not have been. This is because the VAERS, which is our only National system for capturing the *number* of vaccine injuries, i.e., numerical risk value, fails *over 99% of the time*. A "ratio" is a term of *math*, and it cannot be calculated without relevant *numbers*. It cannot be calculated with "expert" slogans or opinions. The only "ethical" scientific method that can be applied here, is to maintain the status quo of unvaccinated scientific controls.

86. These controls have already lost, and are threatened with further loss of, many of their rights in order to avoid serving as subjects in medical experimentation. They already wish to remain unvaccinated, and there is no evidence this exceptionally health minority places anyone else at risk. Those who have already submitted themselves to vaccination, and who wish to continue doing so at this time, are purported to be immune, and therefore "safe" according to current public health authorities. The injunctive relief requested at this time will not affect or harm the vaccine-exposed population, nor limit their ability to serve in more experiments.

87. Because this is a *retrospective* study of outcomes and exposures, (events that have already occurred) there can be no argument the collection of this data could possibly place any party at risk, or otherwise affect their prior medical choices. It is merely the gathering of historical data. Together with acknowledgment of the common practice of including unvaccinated individuals in ethically designed surveys and studies, this provides direct evidence that it is ethical for researchers to survey unvaccinated individuals to obtain a detailed personal medical history. The Survey and Study requested by Petitioners is consistent with the medical ethic of informed consent. Petitioners are not requesting a survey or study that prevents any individual from receiving a vaccination; to the contrary, the Petitioners request a survey and study that encourages individuals to exercise informed consent and informed refusal in vaccination.

XIII. PRECAUTIONARY PRINCIPLE

88. Due to the Petitioners' *prima facie* showing that vaccination is the likely primary suspect in the

National Health Pandemic, and the cause, together with Petitioners' panoply of Constitutional rights infringed as a direct result of their choice to decline participation in vaccination programs, the legal burden must shift to Respondent to demonstrate that either vaccines are not implicated in a statistically significant manner to the National Health Pandemic, or that, even if they are implicated in a statistically significant manner that the benefits outweigh the risks and consequences to the Nation. See e.g., Wilyman, J. (2020). Misapplication of the Precautionary Principle has Misplaced the Burden of Proof of Vaccine Safety. *Science, Public Health Policy & the Law*. Nov 2020 2:23-34. https://www.publichealthpolicyjournal.com/ethics-in-science-and-technology ("In 1960 Macfarlane Burnet, Nobel Prize laureate for immunology, stated that genetics, nutrition, psychological and environmental factors may play a more important role in resistance to disease than the assumed benefits of artificial immunity induced by vaccination. He considered that genetic deterioration of the population may be a consequence of universal mass vaccination and he postulated that in the long-term vaccination may be against the best interests of the state. ... The historical record shows that deaths and illnesses to infectious diseases fell due to public health reforms — and prior to the introduction of most vaccines. Since 1990 there has been a 5-fold increase in chronic illness in children in developed countries and an exponential increase in autism that correlates directly with the expansion of government vaccination programs. Many individuals are genetically predisposed to the chronic illnesses that are increasing in the population and since 1995 governments have not used mortality or morbidity to assess outcomes of vaccination programs. Human

health can be protected in government policies if the precautionary principle is used in the correct format that puts the onus of proof of harmlessness on the government and pharmaceutical industry, and not the general public.")

XIV. CONSTITUTIONAL BASES OF PETITIONERS' REQUEST FOR DECLARATORY RELIEF

89. Petitioners allege that rigorous and ethical scientific survey of unvaccinated individuals is a mathematically necessary component in ending the National Health Pandemic, such that protecting the panoply of Constitutional rights of the unvaccinated, including the minor Petitioners and their families, is necessary to survival of the nation.

90. Petitioners allege a panoply of violations of their constitutional rights. The allegations contained in this Petition form an adequate basis for standing to seek declaratory and injunctive relief.

COUNT NUMBER ONE
Constitution for the United States of America, Perpetuity Principles in Article II, Section 1 (Oath of Office) and Article II, Section 3 (Laws Faithfully Executed)

91. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

92. In accordance with Article II, Section 8, of the Constitution for the United States of America, the President takes the Oath of Office.

93. By virtue of the presentation and filing of this action, Respondent has been placed on notice of the four judicially noticeable facts set forth in paragraph 24. Such facts are not political questions.

Rather, observation of such facts is vital to ensure the very survival of the Nation from the National Health Pandemic. The manner in which Respondent takes action on such judicially noticeable facts would involve his reasonable executive discretion, but the imperative of recognizing the judicially noticeable facts and taking *some* appropriate action reasonably engineered to prevent the collapse of this Nation and prevent further harm to its people, is neither discretionary nor political. The tool of the Executive Order has been utilized historically to accomplish nationwide relief against countless State and local laws oppressing individuals across jurisdictions — for example, when President Abraham Lincoln freed slaves by Executive Order, blacks were not a protected class. When President Dwight Eisenhower used the tool of the Executive Order to desegregate schools (with the cooperation of the Federal Courts), he upheld civil rights by preempting oppressive State and local laws across the country. To help emphasize the need for nationwide relief on this specific issue of vaccination, Petitioners will respectfully submit a logical analogy: this Nation is like a patient with indisputably diagnosed aggressive Stage III cancer that *will be terminal* if the cancer continues on the current trajectory. Respondent is like the Nation's hospital director overseeing the physicians who are just now receiving the lab results proving the aggressive nature of that cancer. Respondent has reasonable discretionary authority regarding his next course of action regarding the physicians' recommendations to the patient, but the physicians must still respect their Physician's Oath to be aware of the patient's state of health and to recommend something defensible to save the patient's life, even if that something defensible is only to refer the patient to another physician (and

indeed at that point, the patient's choice of care provider may be a political question). So the duty to save the patient's life is nondiscretionary (justiciable), but the choice of how to accomplish that goal (within the bounds of strict scrutiny) is discretionary (political question).

94. The Petitioners have presented here a reasonable, logical, and executable plan of action to preserve the evidence critical to the scientific method, and a path to absolute certainty as to what further actions may save this Nation from collapse.

95. This action arises under those specific aspects of the oath of office in Article II, Section 1, of the Constitution for the United States of America, which aspects are not political questions or discretionary matters, but rather which are necessary. Petitioners do not seek justiciability over any political questions reserved to Respondent, but rather Petitioners assert justiciability with respect to the Court's fundamental power under Article III of the Constitution for the United States of America, to act as an intermediary between the President of the United States of America and the People of the United States of America, on the specific issue of the declaratory and injunctive relief requested in this particular case due to the extraordinary and imminent national security emergency threatening the very existence of the Nation. The dissolution of America is imminent unless Respondent (or this Court in respect of him) takes appropriate action.

96. As the 9th Circuit Court [dissent] stated in *Juliana v. United States*, 947 F.3d 1159, 1178-79 (9th Cir. 2020),

> "The Constitution's structure reflects this perpetuity principle. *See Alden v. Maine*, 527 U.S. 706, 713, 119 S. Ct. 2240, 144 L. Ed. 2d

> 636 (1999) (examining how "[v]arious textual provisions of the Constitution assume" a structural principle). In taking the Presidential Oath, the Executive must vow to "preserve, protect and defend the Constitution for the United States," U.S. Const. art. II, § 1, cl. 8, and the Take Care Clause obliges the President to "take Care that the Laws be faithfully executed," U.S. Const. art. II, § 3. Likewise, though generally not separately enforceable, Article IV, Section 4 provides that the "United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and ... against domestic Violence." U.S. Const. art. IV, § 4; *see also New York v. United States*, 505 U.S. 144, 184-85, 112 S. Ct. 2408, 120 L. Ed. 2d 120 (1992). ... The perpetuity principle is not an environmental right at all, and it does not task the courts with determining the optimal level of environmental regulation; rather, *it prohibits only the willful dissolution of the Republic.* (Emphasis added.)

97. In upholding a challenge to Oregon's attempted scheme to force participation in public school programs rather than allow private school choice, the Supreme Court held in *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 536 (1925), "Prevention of impending injury by unlawful action is a well recognized function of courts of equity."

98. Once observed, the four judicially noticeable facts are so plain, and the mathematical trajectories of America's chronic illnesses are so clear, that in the context of Article II, Section 1, this amounts to a breach of contract with Petitioners and the American

People, and rises to the level of reckless dissolution of the Republic, to fail to make an appropriate plan of action to end the National Health Pandemic.

COUNT NUMBER TWO
Constitution for the United States of America, Amendment 1 (Free Exercise of Religion)

99. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

100. Petitioners assert the Freedom of Religion Clause of the First Amendment upholds the fundamental right of an individual to the free exercise of religion in medical decision making.

101. Petitioners are opposed to the use of fetal tissue from aborted children in the manufacture of certain vaccines recommended by the CDC and because of such recommendations variously required for fundamental activities such as military service, school entry, and employment. Petitioners are also religiously opposed to vaccination for other valid and defensible reasons, such as opposition to technology where species and toxins are mixed together for injection into God's creation, the human body, not only because the bible instructs to treat the body as a clean vessel, a temple for the Holy Spirit, but because the health effects of this activity are detrimental to human health.

102. Petitioners have suffered vilification, coercion, segregation, protected class targeting, disparate impact, and social isolation (collectively "Vilification") from both Federal entities and other entities receiving Federal funds, on account of Petitioners' exercise of Constitutional rights alleged herein, including but not limited to freedom of religion in remaining unvaccinated. Such Vilification has actively segregated Petitioners in various private

and public places, including but not limited to military service, choice of school, and choice of employment.

103. Previous executive orders upholding religious freedom have neither addressed nor remedied the full Predicament threatening the Nation.

104. The threatened, further and more comprehensive vaccine mandates against Petitioners, by operation, violate Petitioners' ability to practice their religious beliefs which are a Constitutionally protected right secured to them by the First Amendment.

105. Petitioners also experience a certain and palpable threat of mandatory vaccination during perceived public health emergencies even when those 'emergencies' later prove to be based on public fear rather than mathematical facts.

106. Respondent has the duty to acknowledge that a minority of Americans have been segregated and to take some appropriate action in his reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' 1st Amendment, and other rights. Petitioners further petition for Respondent to take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners 1st Amendment rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, including but not limited to the Survey and Study requested by Petitioners.

107. Petitioners are engaged in Constitutionally protected activity as set forth herein, and are subject to discrimination as a result. Respondent's Oversight (in the omissions sense of the word) to remedy the Predicament and issue the Suspension has chilled persons of ordinary firmness from continuing to

engage in Constitutionally protected activity. Petitioners' protected activity, including but not limited to existing in their God-given natural/ unvaccinated state, was a substantial or motivating factor for their position in regards to the Predicament, which is sustained by Respondent's Oversight in the omissions sense of the word.

COUNT NUMBER THREE
Constitution for the United States of America, Amendment 5 (Bodily Integrity)

108. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

109. Petitioners assert the Due Process Clause of the Fifth Amendment upholds the fundamental right of an individual to personal bodily integrity in medical decision making.

110. The United States Supreme Court has consistently recognized the Constitutional right of every non-incarcerated individual to remain free from forced medical treatment. See e.g., *Cruzan v Director, Missouri Dept of Health,* 497 US 261, 279 (1990), "It cannot be disputed that the Due Process Clause protects an interest in life as well as an interest in refusing life-sustaining medical treatment."

111. For the last 100+ years, courts have attempted to justify vaccination mandates by citing *Jacobson v. Massachusetts,* 197 U.S. 11 (1905). *Jacobson* concerned a small pox outbreak in Massachusetts around the turn of the 20th century, well before the days of strict scrutiny analysis.[9] In a

[9]*Roman Catholic Diocese v. Cuomo*, No. 20A87, 2020 U.S. LEXIS 5708, at *16 (Nov. 25, 2020) (Justice Gorsuch concurring, "Why have some mistaken this Court's modest decision in *Jacobson* for a towering authority that overshadows

7-2 decision applying the 14th Amendment to an individual born in Sweden who immigrated to the United States, the Court upheld the right of local public health authorities to require that persons over age 21 who were fit subjects for vaccination either (1) submit to vaccination, (2) pay a $5 fine to avoid vaccination, or (3) leave the jurisdiction. Given the practical options available to avoiding forced medical treatment (i.e., paying a fine or leaving the jurisdiction), the case has been cited both in favor of forced medical treatment, and against it. But what is certain is that later cases upholding *Jacobson* also upheld:

A. Forced sterilization of human beings. *Buck v. Bell*, 274 U.S. 200 (1927) (later overturned); and

B. Abortion — *Roe v. Wade*, 410 U.S. 113, 154 (1973) (criticized but not yet overturned). This is the slippery slope where a "right" (to a medical procedure) can fast evolve into the government's "right" to force the procedure, as is seen in communist China.

The *Jacobson* Court took judicial notice of "a common belief of the people" (namely, that vaccines are 'safe enough for government work') and elevated it to 'fact'. *Id.* at 35. It cannot be whitewashed that modern vaccination, with its aborted fetuses, DNA manipulation, and nanotechnology, is deeply and shockingly unsafe. It even borders on the ridiculous to sustain today the archaic *consensus gentium* cited

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the Constitution during a pandemic? In the end, I can only surmise that much of the answer lies in a particular judicial impulse to stay out of the way in times of crisis. But if that impulse may be understandable or even admirable in other circumstances, we may not shelter in place when the Constitution is under attack. Things never go well when we do.")

in *Jacobson,* to condone sacrificing individuals for the masses based upon the *false* and now-disproven beliefs of the masses in 1905. Indeed, as the U.S. Supreme Court had cautioned only three years earlier, "[i]t should ever be the care of courts of justice to guard human life and liberty against being sacrificed by public prejudice or excitement." *Dreyer v. Ill.,* 187 U.S. 71, 76 (1902).

The public health authorities misciting *Jacobson* today consistently do so to justify their sacrificial excitement rather than correct beliefs [sic]. In this manner, for 100+ years the *Jacobson* opinion has held America hostage to a false and rigid "belief" system held by locals of a small city in 1905. The government officials genuinely believed Henning Jacobson and his son needed to sacrifice their bodies for the masses of Massachusetts. But would these locals ever have believed or imagined the far-reaching consequences of their support for sacrificing Jacob and his son … forced sterilizations, forced aborted fetus vaccines, forced DNA alteration vaccines, judicially condoned quarantines, church attendance limits, etc. Such is the rotten fruit of a rotten tree. All of this could have been avoided from 1905 to the present day if the Court in *Jacobson* had only based its fateful decision on the equivalent of Petitioners' Requests for Judicial Notice filed in this action, rather than having succumbed to the "common belief" of the masses in 1905.

112. Already in this decade beginning in 2020, America is witnessing a biotechnology revolution by pharmaceutical companies advancing new vaccines unknown to the 1905 Supreme Court:

- **A.** Vaccines such as chickenpox and rubella that are cultured from aborted human fetal tissue,
- **B.** Vaccines that manipulate human DNA,

C. Vaccines incorporating nanotechnology,
D. Vaccines manufactured from cancerous "immortal cell lines", and
E. Vaccines employing human tracking technology.

Petitioners submit this biotechnology revolution cannot be ignored. The time has already come to remember Justice Harlan's caveat on his 1905 case holding in *Jacobson*, "There is, of course, a sphere within which the individual may assert the supremacy of his own will, and rightfully dispute the authority of any human government, especially of any free government existing under a written constitution, to interfere with the exercise of that will." *Jacobson, supra,* at 29. *Jacobson* was not intended to become an open door to unlimited technological advancements so long as a pharmaceutical company attaches its behavior to the word "vaccine". Even before Covid-19 vaccination, according to the trade publication PhRMA, there were over 250 new vaccines in development. Big Pharma is steadily increasing the quantity of vaccines mandated upon the public by government officials receiving so-called "donations" from Big Pharma.

113. Based on the above-described uncertainty surrounding the legal question of 'forced vaccination', the fact compliance with the dictates of pharma are already wrongly enforced against the people by discrimination, and the hotly debated ethical questions surrounding biotechnology, legal scholars and public health officials on all sides continue to debate (or in some cases hide from debate), while the survival of the Nation hangs in the balance.

114. Petitioners are individuals able to provide informed consent/refusal for themselves and their children with respect to vaccination. No public

official or agency has the authority to provide informed consent/refusal on behalf of Petitioners, nor to *coerce* Petitioners (who *are* informed) into "consenting" to participate in a vaccination program within the Predicament.

115. Although Petitioners here are informed, they do not consent to serve as experimental medical subjects by participation in any vaccination program or other vaccination requirement imposed upon the public within the Predicament. Such lawful exercise of their right to refuse to participate, cannot serve as lawful grounds for discrimination against them. Arguments to the contrary are repugnant to the Constitution for the United States of America. Before denial of rights, due process places the burden on any party wishing to thusly coerce, to first prove the plaintiffs have done something to warrant the loss of such a fundamental right, i.e., the right to refuse to consent to serve as the subject of medical experimentation.

116. As a direct and proximate result of Petitioners not providing their informed consent to participation in vaccination programs with a mathematically undefined risk of causing Petitioners disability or death, Petitioners have suffered Vilification as set forth herein.

117. Respondent is not the sole cause of the Vilification, nor the sole cause of the threats of mandatory vaccination, but rather Respondent has the responsibility to acknowledge that America has been segregated and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' 5th Amendment and other rights. Petitioners further petition for Respondent to take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners' 5th Amendment

rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, including but not limited to the Survey and Study requested by Petitioners.

COUNT NUMBER FOUR
Constitution for the United States of America, Amendment 5 (Freedom from Government Created Danger)

118. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

119. Petitioners have the 5th Amendment Due Process right to be free from Respondent placing Petitioners in the Predicament, a position of actual, particularized danger based upon the deliberate indifference of Subordinate Executive Agencies and myriad others to a known and obvious danger in the National Health Pandemic, especially during the unscientific hysteria and overreaction of local health officials to Covid-19.

120. By Oversight in the omission sense of the word, Respondent has not prevented the Vilification, infliction of threats and coercion of mandatory vaccination upon Petitioners, which has placed Petitioners in a position of an actual, particularized danger threatening national security.

121. Respondent has actively supported Subordinate Executive Agencies and myriad others contributing to the Predicament in spite of their deliberate indifference to known and obvious dangers, thereby creating and exposing Petitioners to dangers, the intensity of which Petitioners may not have otherwise faced.

122. Petitioners' current and future injuries as herein stated are reasonably foreseeable to Respondent.

COUNT NUMBER FIVE
Constitution for the United States of America, Amendment 4 (Zone of Privacy)

123. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

124. Petitioners assert the Privacy Clause of the Fourth Amendment respects the fundamental right of an individual zone of privacy in human autonomy necessary to medical decision making.

125. Petitioners live constantly under threat and danger of seizure by myriad authorities who make mathematically unfounded medical determinations that being unvaccinated is "dangerous" and "vaccines are safe".

126. It is widely known and recognized among unvaccinated Americans that child welfare authorities are notorious for citing non-vaccination as a basis for medical neglect charges. Living in a state of fear of child welfare authorities infringes each Petitioners' zone of privacy in medical decision making. It has unnaturally limited each Petitioner's choice of medical provider, and caused further disruption to their doctor-patient relationships.

127. Respondent is not the sole cause of the threats of child seizure, nor the ongoing disruption of doctor-patient relationships, but rather Respondent has the responsibility to acknowledge such issues, and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' 4th Amendment rights. Petitioners further petition for Respondent to take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners' 4th Amendment rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, inclu-

ding but not limited to the Survey and Study requested by Petitioners.

COUNT NUMBER SIX
Constitution for the United States of America, Amendment 8 (Cruel and Unusual Punishment)

128. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

129. Petitioners assert the Eighth Amendment Clause prohibiting Cruel and Unusual Punishment.

130. Cruel and Unusual Punishment is defined as follows: "Cruel and unusual punishment. Punishment that is that is torturous, degrading, inhuman, grossly disproportionate to the crime in question, or otherwise shocking to the moral sense of the community." Black's Law Dictionary Deluxe 8th Edition.

131. Many vaccines have been recalled and phased out as new discoveries revealed hidden dangers. When healthy parents choose to forego injecting their healthy children with whatever particular vaccine the government happens to be promoting at that particular time and place, parents are frequently threatened by child protective services that their parental rights will be stripped and their children will be taken away and given to strangers. This constitutes cruel and unusual punishment. Healthy families being separated and healthy people being ousted from society for their refusal to inject government-mandated biotechnology is a grossly disproportionate response to the parental choice of non-cooperation with human medical experimentation. The punishment is tortuous, degrading, and inhuman.

132. Mandatory and coerced biological alteration is cruel and unusual. Children, young people,

and pregnant women have been especially victimized by vaccines that have not been fully studied and which permanently alter their DNA in unknown measure. It is cruel and unusual when health officials use State powers to give pharmaceutical companies unmeasured control over individual posterity.

COUNT NUMBER SEVEN
Constitution for the United States of America, Amendment 13 (Prohibition on Slavery and Involuntary Servitude)

133. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

134. Petitioners assert the Prohibition of Slavery and Involuntary Servitude Clause of the Thirteenth Amendment upholds the fundamental right of an individual to be free from forced and coerced participation in a national program involving medical decision making.

135. According to Blacks Law Dictionary, 8th Edition, slavery is defined as follows: "A situation in which one person has absolute power over the life, fortune, and liberty of another."

136. By the removal of Petitioners' choices over their personal health, religious freedom, educational, and career opportunities, and forcefully invading their personal autonomy, Petitioners' 13th Amendment rights have been violated by Respondent's Oversight, in the omission sense of the word, toward Subordinate Executive Agencies and myriad others contributing to the Predicament.

137. Petitioners set forth this Count Number Seven with the utmost respect for those who laid the foundation of this Constitutional right: African Americans before the 13th Amendment, who suffered

their own distinct and direct forms of slavery (including but not limited to the subjugation of their health freedom) prior to the Executive Order and Emancipation Proclamation by President Abraham Lincoln on September 22, 1862. At the time of President Lincoln's Order, African Americans were not a protected class. But the 13th Amendment does not state that only African Americans are protected from slavery and involuntary servitude. It outlaws involuntary servitude in the United States regardless of race. Agency approval of medical interventions that remain experimental, does not transform them into nonexperimental. And agency approval of such experiments without informed consent, cannot be stretched to an interpretation that authorizes the discrimination and denial of rights as punishment for those who refuse to consent.

138. As set forth in PRJN1 and PRJN2, the long-term effects of vaccine-triggered human immune system alterations have remained numerically undefined because they had never been studied or evaluated by the US Government for long-term health risks, nor have they been studied by the US Government for their cumulative health risks. However, Petitioners present here, clear evidence of numerical risks associated with vaccination, risks they are unwilling to subject themselves to. Vaccines are, at best, still experimental, and government mandates of participation in an experiment amount to involuntary servitude in a government enforced medical experiment.

139. Nothing in the Constitution for the United States of America grants government the power to force individuals to participate in human medical experiments. The Constitution for the United States of America sets limits on government powers. And

where those powers are not listed, they are prohibited.

140. Petitioners' rights to avoid involuntary servitude in human medical experiments are imminently threatened. Because Petitioners refuse to participate in the medical experiment of CDC recommended vaccination, they face daily discrimination in their own States, and throughout this Nation, resulting in ineligibility for military service, loss of employment opportunities, threatened loss of parental rights, and the denial of educational opportunities.

141. Petitioners, for themselves and for their fellow Citizens similarly situated (who are also essential to inform and contribute to the needed Survey and Study), seek protection from any form of discrimination based solely upon their refusal to serve, and/or to commit their children to serve, as medical research subjects. Codifying human medical experiment without informed consent as a protected activity within the United States does not nullify the Citizen's 13th Amendment protection against being coerced into participating in it. Governmental agency "approval" of human medical experimentation does not strip Citizens of their absolute right to refuse to serve as medical research subjects.

142. The 13th Amendment guarantees all Citizens this right to refuse to serve as medical research subjects. And government has been granted no power to preemptively extinguish any of their other rights, under color of law, as retribution for their failure to obey the dictates of the pharmaceutical industry. No branch of government, and no government agency within the United States, has authority to discriminate against Citizens based solely upon their refusal to serve as medical research subjects.

143. Because the federal government offers no meaningful protection against involuntary servitude in vaccination programs as human medical experimentation, individual Citizens must protect themselves. However, the ability to independently protect oneself from vaccination as a form of human medical experimentation is routinely dismissed by local authorities who do not consider vaccination programs to be a form of human experimentation. Ignorance of the fact vaccines are experimental, leads to segregation and enforcement of dis-crimination against those who refuse to participate. Agency "approval" of medical experimentation without (or agency "waiver" of) informed consent has led to a generalized fallacy that this means the intervention is not experimental, and/or that any medical intervention so "approved" transforms it into an intervention that can be forced upon the public against their will. It is therefore increasingly difficult for Petitioners to protect themselves from becoming experimental medical subjects, as a patchwork of ever-changing discriminatory laws, regulations, and policies are enforced against the unvaccinated.

144. Respondent is not the sole cause of the threats of involuntary servitude, but rather Respondent has the responsibility to acknowledge such issues, and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' 13th Amendment rights. Petitioners further petition for Respondent to take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners' 13th Amendment rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, including but not limited to the Survey and Study requested by Petitioners.

COUNT NUMBER EIGHT
Constitution for the United States of America, Amendment 14 (Equal Protection of the Laws)

145. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

146. Petitioners assert the Equal Protection of the Laws Clause of the Fourteenth Amendment upholds the fundamental right of an individual to the equal protection of the laws in such manner to prohibit segregation of American society based upon individual exercise of freedom of religion in medical decision making.

147. Innumerable local governments, educational institutions, and businesses receive federal funding and federal contracts, and yet have implemented and enforce systematic segregation of unvaccinated individuals from vaccinated ones.

148. Respondent is not the sole cause of segregation, but rather Respondent has the responsibility to acknowledge such issues, and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' 14th Amendment rights. Petitioners further request Respondent take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners' 14th Amendment rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, including but not limited to the Survey and Study requested by Petitioners.

COUNT NUMBER NINE
Constitution for the United States of America, Amendment 9 (Rights Retained)

149. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

150. Petitioners assert the Rights Retained Clause of the Ninth Amendment upholds the absolute right of the Citizen to remain peacefully natural.

151. According to the Congressional Research Service (Mandatory Vaccinations: Precedent and Current Laws, Congressional Research Service. May 21, 2014), if an individual in the United States of America refuses to be vaccinated they may be quarantined during a public health emergency giving rise to the vaccination order.

152. Quarantine immediately jeopardizes a parent's guardianship rights with their minor children. See e.g., *Heller v. Doe*, 509 U.S. 312, 332 (1993) ('[T]he state has a legitimate interest under its parens patriae powers in providing care to its citizens who are unable to care for themselves. ...')"

153. So the forced vaccination of children becomes an immediate threat during an emergency as the State becomes legally empowered to (a) forcefully vaccinate the children directly (when the state has taken guardianship itself after denying the parent the ability to be gainfully employed) or (b) placing the children into the custody of another guardian (such as a family member or a 'qualified' stranger) willing to process the children for forced vaccination. The scenario of forcing Citizens into government dependence as retribution for their refusal to submit themselves and their children into servitude as medical experiments, leads to the government then justifying *further* interventions. It is first to break one's legs, only to then point at them and say 'Now we must take your children because you're clearly an inadequate parent. Since you've refused to submit your children to medical experi-

mentation, we've now taken charge of them and shall do as we wish.' There is no rational interpretation of the Constitution that would not find this outcome repugnant to it. And yet this is the very situation the Petitioners here are increasingly threatened with, in what was intended to be a free Republic.

154. In this Republic, American Citizens do not permit any ruler to exercise absolute power over a fundamental right. For example, the reason government cannot lawfully make it a crime to have brown eyes is because there is no way for a brown-eyed person to safely navigate the rule to avoid punishment. Even to require him to wear sunglasses is to make being peacefully natural a crime. Or more forcefully, where a rule punishes a peaceful man for being natural, it is not law, but a declaration of absolute power by a tyrannical government body or agent. A right becomes inalienable when it cannot be separated from a peaceful man without destroying him (i.e., right of self-defense, or right to exist naturally). In *Yik Wo v. Hopkins*, 118 US 356 (1885) the Supreme Court stated, "When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power." In this manner, Petitioners' assert the absolute right to be peacefully natural.

155. Petitioners live under a justifiable constant threat that they can be quarantined, lose parental rights, and forcefully vaccinated simply for refusing a vaccination that gave rise to their quarantine order. Gone are the days when the logical method of quarantining sick people was in practice. Instead now, *every* healthy person is preemptively assumed guilty without due process, and denied gainful employment, education, and even the right to travel or visit with loved ones. In this manner, forced vaccination becomes a potentiality at the whim of a public official merely due to Petitioners' initial refusal to submit to forced vaccination. Therefore, a patchwork of local authorities is able to assert it is unlawful to be peaceful and unvaccinated in the event of an emergency, provided that the public official decides to vaccinate any given population of individuals in that official's discretion.

156. This prohibition on being peacefully natural jeopardizes the constitutionality of public health statutory schemes because the government is not permitted to criminalize innocent conduct. Due process requires that before fundamental rights may be stripped, they must be given notice of the crime so warranting it, and an opportunity to defend against the charges. Through a complex web of schemes, this burden has been entirely eliminated, and it is now assumed by our agencies that all healthy Americans may be summarily stripped of their most fundamental rights, including their right to *survive* and feed their families through gainful employment. The concept that this right is disposable because the government will surely step in and pay for everything, has proven *untrue* during the Covid-19 hysteria. The government cannot be relied upon to make certain all Americans who need help, will get help, after the government hobbles the American

people by force. This is the method by which the government steals more freedoms, by taking 'responsibility' for things the Constitution never authorized, and which American Citizens would prefer to provide for themselves. In this Republic, Citizens have a right to provide for themselves. Faulty interpretations that led to literally every possible need of the people becoming a "right", led to the government assuming powers far exceeding those outlined in the Constitution.

157. Respondent is not the sole cause of the threats of mandatory vaccination, but rather Respondent has the responsibility to acknowledge such issues, and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' absolute rights. Petitioners further petition for Respondent to take some appropriate action in Respondent's reasonable discretion to safeguard Petitioners' absolute rights that protect them as individuals who are desired candidates for scientific control group surveys and studies, including but not limited to the Survey and Study requested by Petitioners.

COUNT NUMBER TEN
Constitution for the United States of America, Amendment 10 (Powers Reserved)

158. The foregoing paragraphs are repeated and incorporated as though fully set forth herein.

159. Petitioners assert the Powers Reserved Clause of the Tenth Amendment reserves undelegated medical decision making powers to each Citizen.

160. Each Petitioner is the sole person able to provide informed consent/refusal for themselves and

their children with respect to vaccination. No public official or agency has the authority to provide informed consent/refusal on behalf of Petitioners.

161. Petitioners have not provided informed consent or assent to participation in any vaccination program or other vaccination requirement purportedly imposed upon the public.

162. As a direct and proximate result of Petitioners not providing their informed consent or assent to participation in vaccination programs with a mathematically calculated risk of causing Petitioners disability that exceeds 50%, according to the only reasonably-reliable numbers available as seen on the TCG American Survey, Petitioners have suffered Vilification as set forth herein.

163. Respondent is not the sole cause of the Vilification, nor the sole cause of the threats of mandatory vaccination, but rather Respondent has the responsibility to acknowledge that America has been segregated and to take some appropriate action in Respondent's reasonable discretion to either desegregate or justify the continued infringement upon Petitioners' panoply of Constitutional rights.

XV. CONCLUSION

164. In the *Dred Scott* case, the U.S. Supreme Court erroneously interpreted the Constitution to mean all men are *not* "created equal". This decision was ultimately overruled by a duly elected President. If not for that President breaking the chains of injustice created by other entrenched and self-serving branches of government, the people's efforts in securing the freedoms sought, may well have been even bloodier than the civil war.

165. Although the U.S. Supreme court in *Jacobson v. Massachusetts* found that a $5 fine (for

failing to follow a public health directive) was within the constraints of the Constitution, this finding has since been stretched by judicial activists to mean coerced vaccination, and the denial of almost any fundamental right for refusal, and even forced sterilization, is a "right" of the government, so long as it's claimed to be in the interests of "public health", whether it is actually serving that interest or not. Thus, this *interpretation* of the Constitution has come to replace the Constitution itself, as if one interpretation now holds more weight than that which was being interpreted by the opinion. When our highest courts are loathe to upset the apple-cart of prior interpretations, however obviously erroneous, much bigger apple-carts get overturned in the end.

166. Hamilton reasoned that the ultimate interpretation of the Constitution rests in the Executive, by virtue of his power to enforce its terms through military command if required, due to the profound failures of the other branches to protect the rights of the people. The support of the people, of course, is required for a President to take such drastic action and hope to serve another term, or maybe even complete one, since impeachment is also available in the House. This command over the military, which the people have entrusted *solely* to their elected President, is the mechanism by which our President may, and in fact is obliged to, uphold his own oath to the Constitution, when, if by wholly illegitimate interpretation, other branches have degraded, or even attempted to eliminate, the rights and protections the Constitution confers upon the people.

167. The Freedoms conferred in the 13th Amendment were hard won. At the time, the judicial branch did *not* interpret the Constitution to prevent

slavery based upon skin color, and argued "precedent" to defend slavery. The legislative branch was at war with itself on the issue. It was only due to the presence of a President willing to use his enforcement authority as commander in chief of the armed forces, that all Americans gained their freedom. And to what end, if the judicial and legislative branches would only later interpret the Constitution to authorize involuntary service of Citizens in dangerous, and in fact "unavoidably unsafe" medical experiments?

168. The legislative and judicial branches have, thus far, primarily chosen to subjugate the health of the people of this Nation to the demands of the pharmaceutical/medical industrial complex. Beyond the many obvious violations of individual human rights, this long-held pattern of Constitutional interpretation, enforced by legislative acts, has now placed our entire Nation in great peril. The collective "herd" which our legislatures claim to be protecting with an endless stream of coerced pharmaceuticals, delivered by the most invasive means possible, i.e., delivered by direct injection, is *very* sick now. The number of disabled in our younger generations is exponentially higher than just 20 years ago. And the trajectory for the next decade is nothing short of catastrophic. Very soon, this "herd" will, in large part, be incapable of supporting any branches of government, no matter the increased taxation pressed upon the citizens who remain semi-viable.

169. A rapidly growing number of children and young adults in the USA will never leave home, never work, never fall in love, never have a family. They will *instead* require the full-time support of their parents, and society, for their entire lives. The number of parents who have personally witnessed their perfectly healthy children seriously injured by

pharmaceuticals is growing rapidly. In spite of attempted censorship their stories are reaching the masses. Again, a storm *is* upon us all. It will make landfall. Directing this storm to the correct shore is the only remaining option. If our Nation is to survive this storm, the *culprits* can no longer be protected by *any* branch of government, let alone rewarded for their acts against our Nation and its people.

170. The stakes do not get any higher than they are in this case. The Petitioners seek to protect more than their individual rights here. They fight to protect their Nation from imminent and inevitable collapse. Petitioners now lay this plea upon both the Judicial and Executive Branches of the United States of America, in hopes both branches will see reason in preventing the imminent collapse of this great Nation at the hands of a legislative branch and public health agency bureaucracy that is now largely controlled by the pharmaceutical industry. Petitioners pray the continued destruction of the American people will no longer be permitted by erroneous interpretation that concludes such an outcome is somehow "Constitutional."

XVI. REQUEST FOR JURY TRIAL

171. Petitioners request a jury trial on factual matters.

XVII. REQUEST FOR RELIEF

172. Wherefore, Petitioners request the Court issue the following relief:

A. Issue a declaratory judgment that Respondent's oversight, in the omissions sense of the word, was a violation of

Petitioners' rights under the Constitution for the United States of America.

B. Issue a declaratory judgment that Respondent's oversight, in the omissions sense of the word, is perpetuating the National Health Pandemic, which is a matter of national security.

C. Issue a preliminary injunction with regard to the claims contained in this First Amended Verified Petition, as requested in the Petitioners' moving papers and specifically Petitioners' proposed order(s) for Preliminary Injunction, in particular enjoining discrimination based on vaccination status, or in the alternative an order to show cause shifting the burden to Respondent to numerically prove that benefits of vaccine exposure, at any level of exposure, currently outweigh the short-term and long-term risks associated with vaccine exposure.

D. Issue a permanent injunction with regard to the claims contained in this First Amended Verified Petition, including but not limited to prohibiting enforcement of all laws, regulations, and policies that discriminate against any Citizen based upon their vaccination status, and other matters as *substantively* specified in Petitioners' Proposed Order Number One filed 12/29/20.

E. Issue an injunction that at the conclusion of the requested National Health Survey of unvaccinated Americans, vaccines shall not be administered unless the patient or parent/guardian has first provided a signed informed consent that the patient has reviewed the actual *numerical* increased risks of disease, disability and death

associated with exposure to vaccines, both short-term and long-term.

F. Enjoin Respondent from further violations of the Constitution underlying each claim for relief.

G. Issue an order awarding Petitioners costs of suit, and reasonable attorneys' fees and expenses.

H. Issue such other Constitutional relief as this Court deems equitable, just and proper.

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