

No. _____

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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.; Michael Harris, individually and as parent of S.H.; Nicole Harris, individually and as parent of S.H.; Traci Music, individually and as parent of K.M. and J.S.,

Petitioners,

v.

PRESIDENT OF THE UNITED STATES OF AMERICA,
in his official capacity

Respondent.

On Petition for a Writ of Mandamus to the United States District Court for the Eastern District of California, Case No. 2:20-cv-02470-WBS-JDP
Honorable William B. Shubb, United States District Judge
(Fed. R. App. P. 21)

PETITION FOR WRIT OF MANDAMUS

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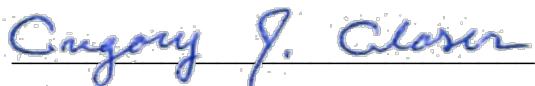
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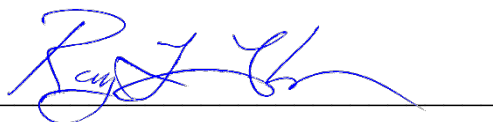
CORPORATE DISCLOSURE STATEMENT

Petitioners submit the following statement of corporate interests and affiliations for the use of the judges of this Court: Petitioners have no corporate interests. Petitioners are not a publicly-held corporation or other publicly-held entity. Petitioners have no stock, so no publicly-held corporation or entity owns any stock in Petitioners.

Respectfully submitted this 16th of April 2021.



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CERTIFICATE OF INTERESTED PARTIES

Affected Court Action

The district court action from which this petition arises is entitled *Garner et al v. Biden*, Case No. 2:20-cv-02470-WBS-JDP, a proceeding in the United States District Court for the Eastern District of California - Sacramento, Department 5, the Honorable William B. Shubb, presiding. Petitioners are the petitioners (plaintiffs) in that action.

Petitioners

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Respondent

Respondent PRESIDENT OF THE UNITED STATES OF AMERICA, in his official capacity is respondent (defendant) in the actions above. Respondent is represented by:

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RELIEF SOUGHT

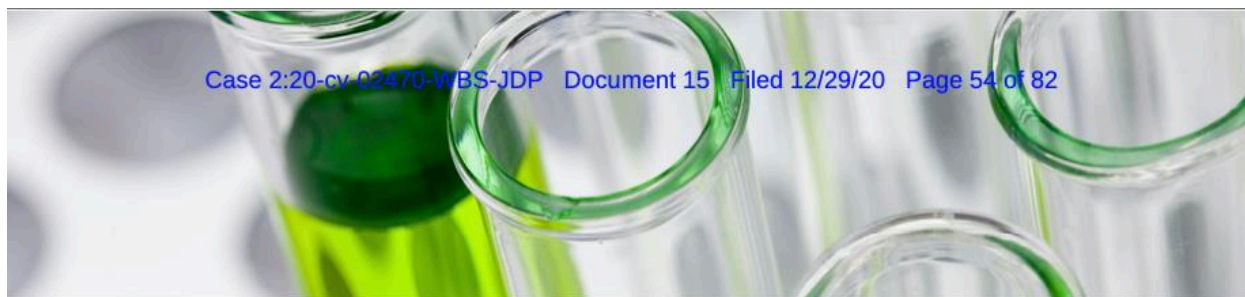
Petitioners (“Healthiest Americans”) seek a writ of mandamus directing the Honorable William B. Shubb, Judge of the United States District Court for the Eastern District of California (Sacramento), in the case entitled *Garner et al v. Biden*, Case No. 2:20-CV-02470-WBS-JDP, to:

1. Set aside the dismissal because the district court had *no* discretion to ignore the most important allegations in the verified petition confirming jurisdiction and dire emergency:

- **Scientific Control Group.** Healthiest Americans are in the unvaccinated scientific control group, statistically the healthiest people in America by >1,000%.
- **Mathematical Trajectory.** The government’s own evidence proves that Federally managed mandatory vaccines from Communist China are mathematically on trajectory *this decade* to cause an imminent collapse of the United States.
- **Presidential Power.** The national vaccine program is the President’s human medical experiment. He vigorously studies, develops, approves, purchases, promotes, and distributes mandatory vaccines while federally funding US parties to enforce nationwide vaccine mandates.

2. Grant Healthiest Americans’ request for judicial notice (incorporated by reference into the First Amended Verified Petition) that the national vaccine program is experimental because the government admits its failure to compare vaccinated to unvaccinated persons; and

3. Instruct the district court to grant declaratory relief that vaccination is experimental and unavoidably unsafe, such that Americans have the absolute right to avoid involuntary service as subjects in the President’s experiment.



VACCINES ARE DANGEROUS

The CDC Recommended Vaccine Schedule Is Experimental

“[S]tudies designed to examine the long-term effects of the cumulative number of vaccines or other aspects of the immunization schedule have not been conducted.”

“[The IOM] found a paucity of information, scientific or otherwise, that addressed the risk of adverse events in association with the complete recommended immunization schedule...”

The National Academy of Sciences (2013). The Childhood Immunization Schedule and Safety: Stakeholder Concerns, Scientific Evidence, and Future Studies. Washington, DC: The National Academies Press. doi: 10.17226/13563.

ISSUES PRESENTED

The following issues are presented on this petition for writ of mandamus:

1. POTUS vigorously manages mandated vaccines (sourced from Communist China) as a matter of national security. New scientific evidence proves 60-80% of vaccinated Americans are being decimated by debilitating chronic illnesses (i.e., cancer, autoimmune diseases), but only 2-6% of unvaccinated Americans have any medical conditions whatsoever. The vaccine-induced collapse of our Nation is imminent on the current mathematical trajectory. Did the district court commit reversible error of law and fact by summarily dismissing this national security case (under the guise of lack of standing) rather than acknowledging as true Healthiest Americans' most important allegations?

2. Did the district court commit reversible error of law and fact by failing to acknowledge as true (required in a motion to dismiss) Healthiest Americans' 100+ causal connections alleged between (i) the imminent collapse of the USA by mandated vaccines sourced from Communist China, and (ii) the Office of the President that manages the following across multiple *federal* departments:

- a) Designing and producing federally vaccines that are mandated;
- b) Classifying and approving federally vaccines that are mandated;
- c) Producing federally the required vaccine information statement on vaccines that are mandated;

- d) Engaging federally in conflicts of interest regarding vaccines that are mandated;
- e) Purchasing federally vaccines that are mandated;
- f) Importing federally from Communist China vaccines that are mandated;
- g) Promoting federally vaccines that are mandated, and promoting federally the policy of mandates;
- h) Distributing federally vaccines that are mandated, to target and exterminate a control group of unvaccinated Americans;
- i) Biased tracking federally of vaccine injuries from mandated vaccines in order to make false and misleading safety claims to justify mandates;
- j) Designing federally a vaccine injury tracking system intended to fail and then falsely reporting federally vaccine injuries from mandated vaccines;
- k) Studying federally uptake of mandated vaccines;
- l) Failing federally to report to Congress on vaccine safety;
- m) Litigating federally vaccine injury cases from mandated vaccines;
- n) Concealing federally that the primary cause of the national health crisis is mandated vaccines;
- o) Setting regulations federally for interstate infectious disease control regarding mandated vaccines;

- p) Funding federally health departments to enforce vaccine mandates across the nation; and
- q) Enforcing vaccine mandates on federal properties and for federally funded activities.

3. District courts routinely save America from self-destruction (i.e., declaring ‘separate is not equal’ across State and local jurisdictions; ordering Governors to reverse unconstitutional conditions decimating a population’s health). Did the district court fail to acknowledge its authority to rule on this constitutional matter?

SUMMARY OF WRIT PETITION

The dismissal must be reversed. The district court had *no* discretion to ignore the most important allegations in the Verified Petition confirming jurisdiction: POTUS vigorously develops, approves, purchases, promotes, and distributes mandatory vaccines from Communist China while federally funding US parties to enforce nationwide vaccine mandates. The allegations in the Verified Petition, when taken as true (as must be here) fully support the required nexus, and therefore standing, to sue the President.¹

¹ Here are representative quotes from the FAVP that establish standing, justiciability, and the fact the President is the proper Respondent for the requested National Security relief: 2-ER-192-193, 197-203, 206-208, 210-213, 216-218, 220-222, ¶¶ 18-20, 22, 32-35, 40, 42, 47, 49, 51-53, 56, 61-66, 74, and 78. The

Extraordinary scientific evidence like the above graph is cited *abundantly* in the pleadings. For example, Healthiest Americans found *zero* heart disease among the 210 unvaccinated American adults surveyed, yet, “According to the American Heart Association, 48% of American adults suffer heart disease.” FAVP², 2-ER-183, ¶ 2B. It is mathematically impossible for all of this to be random chance.

Vaccines are the primary cause of heart disease, diabetes, cancer, and so much more (which also explains the rise in these diseases paralleling vaccine rates).

There is just no nice way to put this case, nor any rational reason to ‘tone it down’. Healthiest Americans plainly alleged in the Verified Petition that the collapse of our Nation is *mathematically imminent* due to current vaccine injury trajectories. This fact was entirely ignored by the district court, as if it had never been pled. Likewise, the district court simply ignored the allegations that POTUS is the only indispensable defendant who federally develops, manages, finances, and promotes mandatory vaccination across the country, and *so much more*.

If the imminent destruction of our Nation caused by mandatory vaccination is not sufficient for a court of equity to see immediate irreparable injury deserving mandamus, then nothing will suffice.

² “FAVP” refers to Petitioners’ First Amended Verified Petition filed January 25, 2021, USDC Dkt. 21, contained in the Excerpts of Record at 2-ER-182-255.

STATEMENT OF JURISDICTION

The district court had subject matter jurisdiction under the Constitution for the United States of America, and under 28 U.S.C. §§ 1331, 1343(a)(3), 2201(a) and 2202 to grant the requested relief. This Ninth Circuit Court has appellate jurisdiction under 28 U.S.C. § 1291 to reverse the district court's dismissal of the case with prejudice, and to grant judicial notice at any time.

PROCEDURAL HISTORY

Healthiest Americans served the White House and Department of Justice with approximately 5,000 pages of pre-litigation scientific materials in Autumn 2020. Receipt was confirmed the same month, but Healthiest Americans received zero substantive response after three months waiting patiently. Accordingly, the district court case was commenced, as Healthiest Americans filed the Verified Petition seeking declaratory relief (declare an emergency) and preliminary injunction (to uphold informed consent).

Incorporated by reference³ with the Verified Petition, Healthiest Americans concurrently filed their Requests for Judicial Notice proving the national health crisis is caused by dangerous vaccines sourced primarily from Communist China, and that the control group of unvaccinated Americans (necessary to the scientific

³ The FAVP incorporates by reference the Requests for Judicial Notice, including for example in paragraph 64 “incorporated Requests for Judicial Notice.” 2-ER-217. The FAVP refers 16 times to the PRJNs.

method) is threatened with imminent extinction. VP/FAVP ¶ 24; 2-ER-194.

Healthiest Americans also incorporated by reference⁴ their Motion for Preliminary Injunction. Supported by highly qualified experts, the motion makes the case for the scientific method (comparing vaccinated to unvaccinated).

Healthiest Americans' evidence plainly proved that the unvaccinated are the healthiest people in the Nation by exponential amounts (specifically, the unvaccinated are >1,000% (ten times!) healthier than the vaccinated).

Our Nation has never faced an infectious disease threat anywhere near as devastating or threatening as our Nation's current *vaccine-caused* pandemic of immune-mediated illnesses, disabilities, and related deaths.

On January 29, 2021, POTUS filed a request for continuance of the above-referenced motions, claiming POTUS needed more time to file a motion to dismiss. Healthiest Americans opposed the motion on the following grounds:

The transparent reality here is that [POTUS'] Counsel is wishfully hoping this Court will take the easy road to 'lump all three motions together' and then simply dismiss this action outright rather than actually review and thoughtfully rule upon the plainly incriminating requests for judicial notice.

At the hearing on such motion, the court set an accelerated briefing schedule

⁴ The FAVP incorporates by reference the Motion for Preliminary Injunction, including for example in paragraph 4, note 1 ("See Petitioner Joy Garner's Declaration ('Garner Declaration') In Support of Motion for Preliminary Injunction"). 2-ER-186. The FAVP refers 11 times to the Motion for Preliminary Injunction.

over Healthiest Americans’ express objections. *See* 2-ER-70, lines 4-7; 2-ER-24, line 14 through 2-ER-25, line 5.

On February 10, 2021, POTUS filed his motion to dismiss the action on the grounds of lack of standing, yet admitting: “A facial motion to dismiss, such as this one, assumes the truth of the well-pled facts in the complaint.” 2-ER-167, lines 18-20.

A hearing was held on George Washington’s Birthday (February 22, 2021) in the district court on the three motions. The Transcript of the hearing shows that the district court judge did not acknowledge or respect Healthiest Americans’ extraordinary evidence showing that vaccines are causing the collapse of the United States, but rather summarily discharged the case from the docket based on a ‘standing’ argument unsupported by the record. *See* 2-ER-28-47.

LEGAL ARGUMENT

A. Standard of Review.

1. Healthiest Americans’ Standing Is A Question of Law Reviewed De Novo, With The Facts Taken As True.

Standing and justiciability are questions of law, which this Ninth Circuit Court reviews de novo. *Jewel v. Nat’l Sec. Agency*, 673 F.3d 902, 907 (9th Cir. 2011); *Renee v. Duncan*, 686 F.3d 1002, 1010 (9th Cir. 2012). “To invoke a federal court’s subject-matter jurisdiction, a plaintiff needs to provide only ‘a short and plain statement of the grounds for the court’s jurisdiction.’” *Leite v. Crane Co.*,

749 F.3d 1117, 1121 (9th Cir. 2014) (*quoting* Fed. R. Civ. P. 8(a)(1)). “Accepting the plaintiff’s allegations as true and drawing all reasonable inferences in the plaintiff’s favor, the court determines whether the allegations are sufficient as a legal matter to invoke the court’s jurisdiction.” *Id.*⁵

2. These Special Circumstances Warrant Mandamus.

Regarding “issues of first impression” and “special circumstances”, an appellate court can take an active role in granting mandamus and guiding the district court to solve an important problem. *See, e.g., Schlagenhauf v. Holder*, 379 U.S. 104, 110-11 (1964) (“The meaning of Rule 35’s requirements of ‘in controversy’ and ‘good cause’ also raised issues of first impression. In our view, the Court of Appeals should have also, under these special circumstances,

⁵ Though a plaintiff “must allege ‘factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged,’” *Levitt v. Yelp! Inc.*, 765 F.3d 1123, 1135 (9th Cir. 2014) (*quoting* *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)), “[s]pecific facts are not necessary; the statement need only ‘give the defendant fair notice of what the ... claim is and the grounds upon which it rests.’” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (*per curiam*) (*quoting* *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)) (emphasis added). “General factual allegations of injury resulting from the defendant’s conduct may suffice, as [federal courts] ‘presum[e] that general allegations embrace those specific facts that are necessary to support the claim.’” *Jewel*, 673 F.3d at 907 (*quoting* *Lujan v. Nat’l Wildlife Fed.*, 497 U.S. 871, 889 (1990)) (emphasis added). 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.... This standard, often cited in Rule 12(b)(6) motions, ... is equally applicable in motions challenging subject matter jurisdiction when such jurisdiction may be contingent upon factual matters in dispute.” *Roberts v. Corrothers*, 812 F.2d 1173, 1177 (9th Cir. 1987).

determined the ‘good cause’ issue, so as to avoid piecemeal litigation and to settle new and important problems.”).⁶

3. The District Court Erred Because Questioning the Allegations Converts the Motion to Summary Judgment.

If a district court questions the validity or credibility of any allegations, then it converts a motion to dismiss into a motion for summary judgment. *See* USCS Fed Rules Civ. Proc. 12 annotated:

[The] District Court erred in not following procedures of Rule 12(b) with respect to conversion of Rule 12(b)(6) motion into Rule 56 motion for summary judgment, because it considered material outside pleadings in deciding defendant’s motion; accordingly, although parties have waived any objection to court’s manner of proceeding by failing to raise question on appeal or below, Court of Appeals must scrutinize record to determine whether it raises genuine issue of material fact regarding limitation bar. *Triplett v. Heckler*, 767 F.2d 210, 1985 U.S. App. LEXIS 21002 (5th Cir.), reh’g denied, 774 F.2d 1160 (5th Cir. 1985), cert. denied, 474 U.S. 1104, 106 S. Ct. 889, 88 L. Ed. 2d 923, 1986 U.S. LEXIS 1244 (1986).

Here, if the district court wished to question the *validity* of any of the factual allegations, Healthiest Americans were entitled to proper due process with an opportunity to respond accordingly. At a minimum, Healthiest Americans would have been entitled to a hearing and order on their Request for Judicial Notice proving the factual allegations are in fact, *true*.

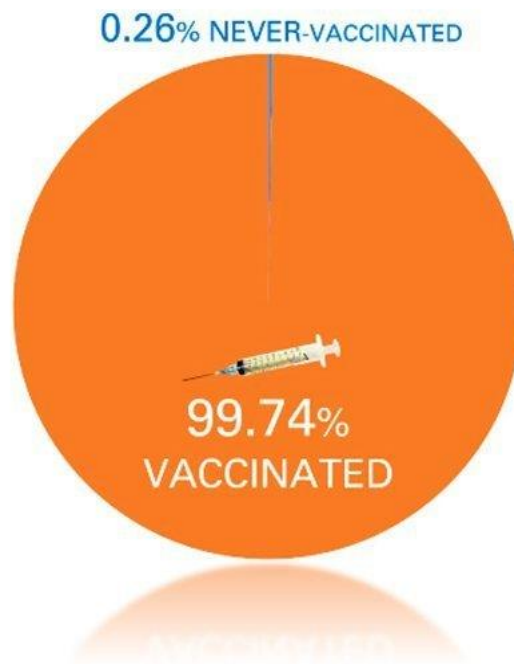
⁶ *See also Gen. Motors Corp. v. Lord*, 488 F.2d 1096, 1099 (8th Cir. 1973) [citing *Schlagenhauf*], “Extraordinary circumstances may be presented where the order under attack exemplifies a novel and important question in need of guidelines for the future resolution of similar cases.”

B. The District Court Committed Reversible Error of Law and Fact by Dismissing the Case at Warp Speed Rather Than Acknowledging as True Healthiest Americans' Most Important Allegations.

The district court acted as if the pleadings were untrue. The math shows the majority (>60%) of people who are injected with vaccines are seriously injured by them, and this Nation's people are being *decimated* by them. It is impossible the district court *accidentally* overlooked such staggering claims. Regardless of the reason for overlooking/ignoring the factual allegations, this is an incorrect method of disposing of a complaint on a Rule 12(b) motion.⁷

The unvaccinated control group is more than ten times healthier than the vaccinated! *Most* vaccinated people are suffering and dying prematurely. Nearly all unvaccinated people are perfectly healthy. This is staggering evidence indeed. The unvaccinated control group is necessary to the scientific method and is on the immediate precipice of extinction.

⁷ Although the district court summarily claimed it took all allegations as true and in Healthiest Americans' favor (*see* Order at 1-ER-6, lines 24-26), the transparent reality is that the judge ruled instead upon a *perception* of the case outside the pleadings. For example, the district court's reference to First Am. Compl. at ¶ 52(a) was misquoted out of context. The actual context stated the President *is* "vigorously involved" in government mandates that *only* the President can remedy nationwide to save America. 2-ER-212-213.



The percentage of vax-free Americans is almost too small to show on a chart.

Case law precedent (as sufficiently pled by Healthiest Americans) proves federal courts routinely order POTUS and Governors to take action on both small specific matters (i.e., ordering POTUS to issue a specific pay raise)⁸ and big general matters (i.e., enforcing desegregation of schools nationwide with ongoing judicial supervision; ordering a Governor to use his discretion to clean up

⁸ *Nat'l Treasury Emps. Union v. Nixon*, 160 U.S. App. D.C. 321, 492 F.2d 587 (D.C. Cir. 1974) (upholding mandamus against the President to require a pay raise), “The discretionary-ministerial distinction concerns the nature of the act or omission under review not the official title of the defendant. No case holds that an act is discretionary merely because the President is the actor.” The FAVP carefully pleads around any political questions (*see especially* FAVP, 2-ER-213, 229, ¶¶ 56, 93). 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 declaration of war.

dilapidated conditions in prisons with ongoing judicial supervision)⁹.

Coercing American citizens (through discrimination and loss of other fundamental rights) into serving as subjects in medical experiments is not a ‘lawful’ or ‘valid’ action of any branch of government, whether state or federal. The President’s premise that he cannot ‘lawfully’ interfere with unconstitutional discrimination, which is systemic, nationwide, and causing the imminent collapse of this Nation through destruction of the health of its people, is without foundation. Further, the Article III Judiciary is empowered, independent of Article II, to ‘interfere’ with such unconstitutional actions.

As with *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954) (first declaring nationwide ‘separate is not equal’, then in the years afterwards fashioning

⁹ *Coleman v. Schwarzenegger*, 922 F. Supp. 2d 882, 1003 (E.D. Cal. 2009) (granting plaintiffs’ request for ongoing federal court monitoring and active intervention to stop discrimination, because scientific risk assessment supported Orders to Show Cause and follow-up orders to remedy prison population-wide deterioration of health due to unmitigated constitutional violations). Federal courts are supposed to actively intervene (even over lengthy periods of time if needed) to safeguard constitutional rights. *See also Aguayo v. Richardson*, 473 F.2d 1090 (2d Cir. 1973) (granting mandamus to welfare parents and children, such that the sanction of an otherwise mandatory health and safety program was temporarily stayed; emphasizing the utility of ‘controlled experiment’ science, implicitly criticizing one-size-fits-all health and safety policy). Healthiest Americans refer the Court to their extensive legal argument and authorities cited in the MPA for Preliminary Injunction, especially section III.1.B.1.b (“Now That the Evidence Is Indisputable, It Is An Abuse of Discretion to Forego Saving Our Nation.”) and III.1.B.1.d (“Mandamus Against An Executive Is The Proper Function of the Court.”) 2-ER-256-284.

injunctive relief), declaratory relief is the *first* thing Judge Shubb should have ruled upon, because well fashioned declaratory relief can “create the remedy” and “terminate the controversy.”¹⁰ Respectfully, Judge Shubb’s erroneous reasoning is that declaratory relief cannot issue without injunctive because the district court must be powerless to stop States from mandating human medical experimentation:

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).)

See Order at 1-ER-10, lines 10-15.¹¹

In other words, the district court found that, *in advance of* the creation of any remedy (via a declaration of rights) Healthiest Americans must be denied any opportunity to *create a remedy*, on grounds that *enforcement of* remedy (injunctive relief) is not available *in advance of* the creation of that remedy via declaratory

¹⁰ 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 Notes of Advisory Committee (“A declaratory judgment is appropriate when it will ‘terminate the controversy’ giving rise to the proceeding.”).

¹¹ In his Order, Judge Shubb also appears to have unwittingly mocked the very idea of informed consent for Americans when he criticized the request for relief to “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.” 1-ER-10, lines 2-6.

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.

Another example of clear and simple error is the district court's statement, "how such an order would compensate plaintiffs for their past injuries." Healthiest Americans never made a request for compensatory damages.

At the hearing on George Washington's Birthday, there was a discussion of the case *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020), which must be understood in context, because the instant Control Group case is pled differently and much more narrowly, *namely*, with a single possible culprit alleged (the President's medical experiment) rather than *Juliana's* wide variety of possible causes that may or may not be responsible for a wide variety of harms and that may or may not be (and indeed were not) attributable to the President.¹²

Healthiest Americans lay this plea to our Ninth Circuit to remember well and remember now our maxim of law that shapes our courts of equity through the ages:

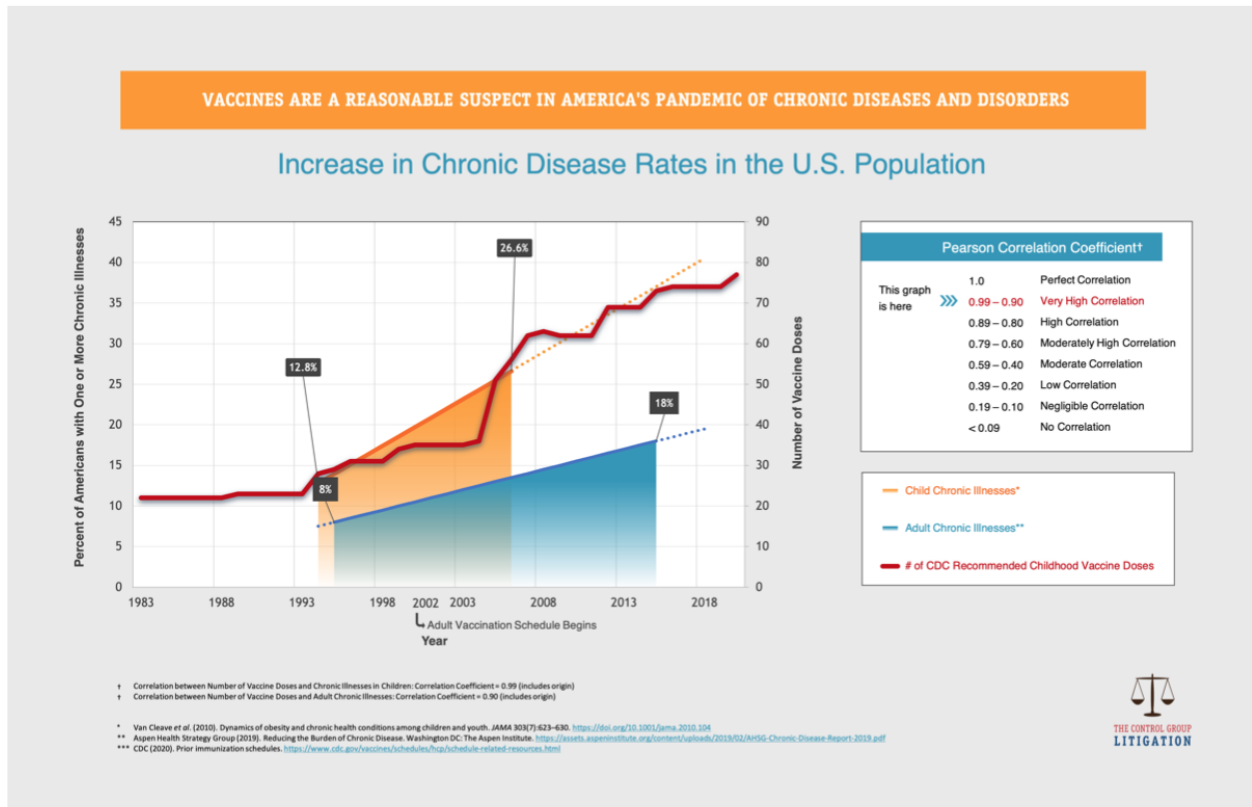
¹² The *Juliana* plaintiffs asked for *decades* of unlimited and vague judicial supervision over "climate change." By contrast, Healthiest Americans in this case ask for limited, short-term, and specific relief, namely a single court order upholding the well-defined law and ethic of informed refusal for all Americans regarding the President's human medical experiment.

ubi jus ibi remedium

“where there is a right, there is a remedy”

Healthiest Americans respectfully request the remedy now, before it is too late to save America. See, e.g., 3-ER-327:

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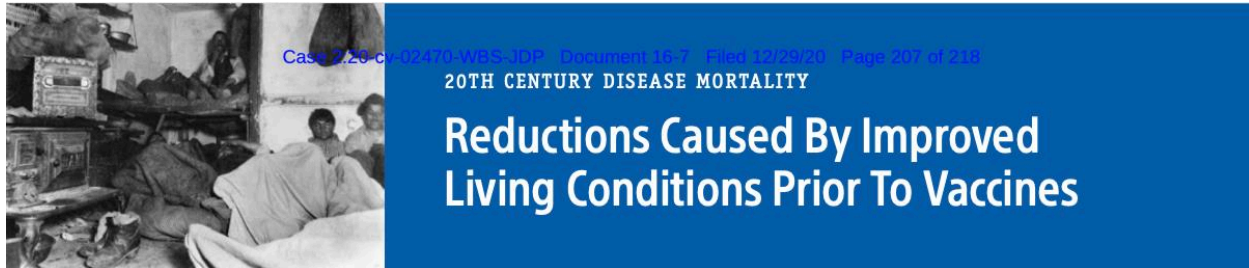


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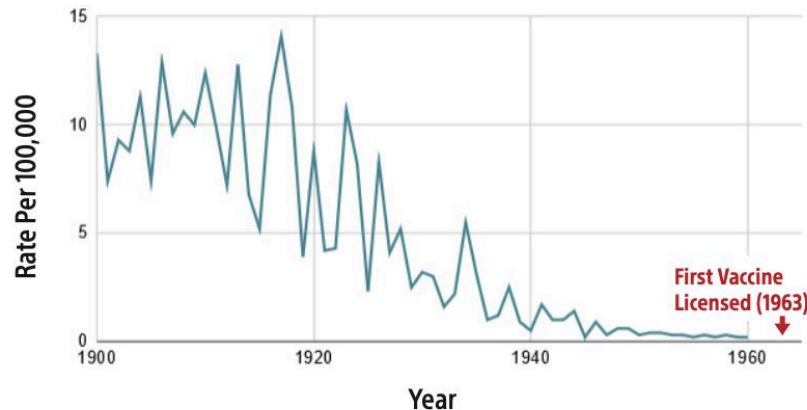
Exhibit E

All of the necessary constitutional rights are stated in the Verified Petition (especially Fifth Amendment bodily integrity). The Thirteenth Amendment also

brings focus to the case, as it forbids any form of involuntary servitude (including involuntary human medical experiments).¹³



Measles Disease Mortality United States, 1900-1960¹



SOURCES:

1. Grove, R. D., Hetzel, A., M., (1968). Vital statistics rates in the United States, 1940-1960, pp 559 - 603, Washington, D.C.: U.S. Department of Health, Education, and Welfare, Public Health Service, National Center for Health Statistics, 1968. 2. "The first measles vaccines were licensed in 1963." Centers for Disease Control and Prevention. Epidemiology and Prevention of Vaccine-Preventable Diseases. Hamborsky J, Kroger A, Wolfe S, eds. 13th ed. Washington D.C. Public Health Foundation, 2015.

1

THE CONTROL GROUP
LITIGATION
Exhibit F

3-ER-338

*Let us reason together. Government data (like the above graph)
proves vaccines falsely took the credit for protecting America.*

¹³ The Thirteenth Amendment is also the only constitutional provision that specifically identifies any method of enforcing the protections codified by the Nuremberg Code within the USA. If we cannot be protected from involuntary service as subjects in federally 'approved' human medical experiments under the Thirteenth Amendment, then what does the Thirteenth Amendment mean exactly?

C. The District Court Committed Reversible Error Of Law And Fact By Failing To Acknowledge As True Healthiest Americans' Stated Causal Connections Between (a) The Vaccine-Induced Collapse Of The USA By Federally-Managed Mandated Vaccines From Communist China, And (b) The Office Of The President That Federally Manages Mandatory Vaccination Across Multiple Departments.

The national vaccine program is the President's human medical experiment.

All of the States are entwined with, and do execute, the vaccine policies of POTUS. The law recognizes that POTUS can be sued for actions of subordinates that POTUS knows, or reasonably should know, cause subordinates to violate rights.¹⁴

See especially those excerpts from the pleadings highlighted in the Excerpts of Record hereto, such as:

- 2-ER-212-213, ¶¶ 52-53 [FAVP], “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

¹⁴ Congressional Research Service (2021). United States Constitution Annotated, Art. II, Sec. III, *The President As Law Enforcer*. <https://www.law.cornell.edu/constitution-conan/article-2/section-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. The President, in the exercise of his executive power under the Constitution, ‘speaks and acts through the heads of the several departments in relation to subjects which appertain to their respective duties.’ The heads of the departments are his authorized assistants in the performance of his executive duties, and their official acts, promulgated in the regular course of business, are presumptively his acts.” [citations omitted].)

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.”

- 2-ER-216, ¶ 61 [FAVP], “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* [4-ER-495-605] [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.”
- 2-ER-218, ¶ 65 [FAVP], “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.”
- 2-ER-221, ¶ 75 [FAVP], “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* [4-ER-495-605] [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.”

1. Designing and producing federally vaccines that are mandated

- FAVP, 2-ER-194-195, ¶¶ 24-25; FAVP, 2-ER-213, ¶ 53; PRJN2, 4-ER-508, line 12 through 4-ER-544, line 2; PRJN2, 4-ER-582, lines 3-11; PRJN2, 4-ER-584, lines 23-27; PRJN2, 4-ER-587, lines 19-27; PRJN2, 4-ER-591, line 8 through 4-ER-592, line 3.

2. Classifying and approving federally vaccines that are mandated

- FAVP, 2-ER-212-213, ¶¶ 52-53; FAVP, 2-ER-225, ¶ 81; PRJN2, 4-ER-592, line 4, through 4-ER-593, line 6.

3. Producing federally the required vaccine information statement on vaccines that are mandated

- FAVP, 2-ER-212-213, ¶¶ 52-53.

4. Engaging federally in conflicts of interest regarding vaccines that are mandated

- FAVP, 2-ER-190, ¶ 14, n.7; FAVP, 2-ER-218-219, ¶ 67; PRJN2, 4-ER-562, line 17 through 4-ER-564, line 22.

5. Purchasing federally vaccines that are mandated

- FAVP, 2-ER-212-213, ¶¶ 52-53; PRJN2, 4-ER-564, lines 17-22.

6. Importing federally from Communist China vaccines that are mandated

- FAVP, 2-ER-198, ¶ 35; PRJN3, 4-ER-615, lines 20-21; PRJN3, 4-ER-622, lines 2-3; PRJN3, 4-ER-628, lines 12-13; PRJN3, 4-ER-633, lines 3-5; PRJN3, 4-ER-634, lines 3-4; PRJN3, 4-ER-650 lines 20-22.

7. Promoting federally vaccines that are mandated, and promoting federally the policy of mandates

- FAVP, 2-ER-195, ¶ 27; FAVP, 2-ER-212-213, ¶¶ 52-53; FAVP, 2-ER-218-219, ¶ 67; PRJN2, 4-ER-564, lines 17-22; PRJN2, 4-ER-566, line 21 through 4-ER-567, line 7; PRJN2, 4-ER-568, line 14 through 4-ER-569, line 23.

8. Distributing federally vaccines that are mandated, to target and exterminate a control group of unvaccinated Americans

- FAVP, 2-ER-212-213, ¶¶ 52-53; PRJN2, 4-ER-566, line 21 through 4-ER-577, line 7; PRJN2, 4-ER-569, line 24 through 4-ER-570, line 5.

9. Biased tracking federally of vaccine injuries from mandated vaccines in order to make false and misleading safety claims to justify mandates

- FAVP, 2-ER-186, 220, 226-227, ¶¶ 4, 71, 84; PRJN1, 3-ER-395-493 (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); PRJN2, 4-ER-589, line 7 through 4-ER-590, line 10; PRJN2, 4-ER-593, line 16 through 4-ER-594, line 2.

10. Designing federally a vaccine injury tracking system intended to fail and then falsely reporting federally vaccine injuries from mandated vaccines

- FAVP, 2-ER-187-188, 190-191, 220, 227, ¶¶ 9-11, 15, 73, 85; PRJN2, 4-ER-553, line 18 through 4-ER-557, line 20.

11. Studying federally uptake of mandated vaccines

- FAVP, 2-ER-186, 212-213, ¶¶ 4, 52-53; PRJN2, 4-ER-574, lines 7-19; PRJN2, 4-ER-594, line 3 through 4-ER-595, line 11.

12. Failing federally to report to Congress on vaccine safety

- FAVP, 2-ER-212-213, ¶ 52B; PRJN2, 4-ER-593, lines 7-15.

13. Litigating federally vaccine injury cases from mandated vaccines

- FAVP, 2-ER-197-198, ¶¶ 32-34.

14. Concealing federally that the primary cause of the national health crisis is mandated vaccines

- FAVP, 2-ER-187, ¶ 8.

15. Setting regulations federally for interstate infectious disease control regarding mandated vaccines

- FAVP, 2-ER-212-213, ¶¶ 52-53.

16. Funding federally health departments to enforce vaccine mandates across the Nation

- FAVP, 2-ER-210, 212-213, 232, 242, ¶¶ 49B, 52-53, 102, 147; PRJN2, 4-ER-576, lines 1-9.

17. Enforcing vaccine mandates on Federal properties and for Federally funded activities

- FAVP, 2-ER-199-208, 210-213, ¶¶ 40-42, 49, 52-53; PRJN1, 3-ER-405, lines 8-10; PRJN2, 4-ER-570, lines 8-18.

Only the President is well equipped to answer the Verified Petition. It would be highly inappropriate, futile, and impossible to join countless subordinates and departments across unknown jurisdictions.

The district court was correct on this one point, that POTUS is not the "sole" cause of the predicament. Indeed. POTUS has hired, incentivized, and deployed *an army* to implement and enforce his vaccine agenda *nationwide* in order to assure that all Americans are injected with *all* of the President's "approved" vaccines.

If an Executive hires and pays 1,000,000 gunmen, gives them all guns and bullets, and then points to "we the people" *while* directing the 1,000,000 gunmen to shoot as many of us as possible, do "we the people" have a cause of action against that Executive, or must we chase down the 1,000,000 hired killers and only name

them as defendants? By recommending an impossibility (namely 1,000,000 defendants, thousands of jurisdictions), the district court was really saying there is no remedy for the wrong destroying our Nation.

This Court can also take judicial notice that on March 10, 2021, Joe Biden took credit yet again for the Operation Warp Speed Vaccine development and supply via the US military. THE WHITE HOUSE (March 10, 2021). *President Biden Hosts an Event with the CEOs of Johnson & Johnson and Merck*. Press Conference. https://youtu.be/UjH4_NOVtWc.

The same day, President Trump responded in writing that the vaccine depended specifically on the President. Dorman, S. (March 11, 2021). *Trump takes credit for 'China virus' vaccine: 'I hope everyone remembers!'* FOX NEWS. <https://www.foxnews.com/politics/trump-takes-credit-vaccine>.



DONALD J. TRUMP

- March 10, 2021 -

**Statement by Donald J. Trump, 45th President of the
United States of America**

I hope everyone remembers when they're getting the COVID-19 (often referred to as the China Virus) Vaccine, that if I wasn't President, you wouldn't be getting that beautiful "shot" for 5 years, at best, and probably wouldn't be getting it at all. I hope everyone remembers!

D. If More Specificity Were Somehow Needed, The District Court Committed Legal Error in Concluding That It Would Have Been Futile to Grant Healthiest Americans Leave to Amend.

1. Standard of Review.

“The trial court’s denial of leave to amend a complaint is reviewed for an abuse of discretion,” *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011), “but whether the denial rests on an accurate view of law is reviewed de novo.” *Gordon v. City of Oakland*, 627 F.3d 1092, 1094–95 (9th Cir. 2010). “The standard for granting leave to amend is generous.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 701 (9th Cir.1990) (noting that leave to amend should be granted when a court can “conceive of facts” that would render the plaintiff’s claim viable). “Dismissal without leave to amend is improper unless it is clear, upon de novo review, that the complaint could not be saved by any amendment.” *Krainski v. Nevada ex rel. Bd. of Regents of Nevada Sys. of Higher Educ.*, 616 F.3d 963, 972 (9th Cir. 2010).

2. If More Specificity About the President’s Direct and Complicit Oversight of Vaccine Policies and Mandates Is Needed, Then the District Court Erroneously Concluded That Granting Leave to Amend Would Be Futile.

“The court considers five factors in assessing the propriety of leave to amend—bad faith, undue delay, prejudice to the opposing party, futility of

amendment, and whether the plaintiff has previously amended the complaint.”

Johnson v. Buckley, 356 F.3d 1067, 1077 (9th Cir. 2004).¹⁵

Although the complaint has been amended once in this case, it was amended before POTUS filed the motion to dismiss. Indeed, counsel for POTUS failed to engage in any meet and confer process on the dismissal motion. Healthiest Americans maintain it is unnecessary to add still more specificity to the pleadings (including PRJNs), but if prompted would add information like the following:

- “Federal funds pay for approximately 95% of all publicly funded vaccinations... most states depend primarily on federal resources to purchase vaccines.” NATIONAL CONFERENCE OF STATE LEGISLATURES (2021). *State Immunization Policy Overview*. <https://www.ncsl.org/research/health/immunizations-policy-issues-overview.aspx>.
- Summary list of different federal departments managing vaccines across the Nation, including for example: Department of Defense, Department of Veterans Affairs, FDA, CDC, NIH, etc. HHS (2018). *Vaccines: Get Involved*. <https://www.vaccines.gov/get-involved/get-more-information>. See also Folkers, G., Fauci, A. *The Role of US Government Agencies in Vaccine Research And Development*. NAT MED 4, 491–494 (1998). <https://doi.org/10.1038/nm0598supp-491>.
- “[T]he CDC produce vaccine information materials for mandatory distribution by providers to patients or parents before administration

¹⁵ Futility alone has been recognized by this Court as a reasonable ground for dismissal with prejudice, but only after the district court has afforded the plaintiff ample opportunity to state its claims. See, e.g., *Sylvia Landfield Trust v. City of Los Angeles*, 729 F.3d 1189, 1196 (9th Cir. 2013) (affirming the district court’s denial of leave to amend for futility where the plaintiff had been permitted to amend its complaint twice before, and its proposed third amended complaint still failed to state any claims).

of VICP-covered vaccines (42 U.S.C. § 300aa-26).... Since 1962, the federal government has supported childhood vaccination programs through a grant program administered by the CDC.... The ACIP recommendations are often considered by states as they determine which vaccinations to mandate for school attendance.... No constitutional right exists to either a religious or philosophic exemption to these requirements.” Malone, K.M., and Hinman, A.R. 2003. Vaccination mandates: The public health imperative and individual rights. In *Law in Public Health Practice* (pp. 262–84). New York: Oxford University Press. Retrieved August 12, 2008, from http://www.cdc.gov/vaccines/imz-managers/guides-pubs/downloads/vacc_mandates_chptr13.pdf.

- “As I’ve always said, this was a wartime effort, and every action has been on the table, including putting together breakthrough approaches.... Here’s what all this means: We’re now on track to have enough vaccine supply for every adult in America by the end of May.... And today, I’m using the full authority of the federal government. I’m directing every state to do the same. My challenge to all states, territories, and the District of Columbia is this: We want every educator, school staff member, childcare worker to receive at least one shot by the end of the month of March.” Biden, J. (March 2, 2021). *Remarks by President Biden on the Administration’s COVID-19 Vaccination Efforts*. <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/03/02/remarks-by-president-biden-on-the-administrations-covid-19-vaccination-efforts/>.
- “Finally, through prioritizing diverse and inclusive representation in clinical research and strengthening enforcement of antidiscrimination requirements, the federal government will increase access to effective COVID-19 care and treatment.... The United States will provide federal support to current state and local vaccination planning, understand and respond to the current vaccine supply gap, address and fill vaccination workforce requirements at the state and local level, and overcome challenges with vaccination prioritization, distribution, and administration planning.” Biden, J. (2021). *National Strategy for the Covid-19 Response and Pandemic Preparedness*. <https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf>.

- “These financial assistance mechanisms help involve and engage public health stakeholders, including state and local governments, in fulfilling CDC’s mission. Grants and cooperative agreements provide the means to transfer federal monies, resources, technical assistance, and / or expertise to these stakeholders in exchange for their contributions or to ensure their alignment with federal goals and objectives.... Cooperative agreements are used when CDC has substantial involvement in the activities being funded...” CDC (2018). *About CDC Funding*. CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/funding/about-cdc-funding/index.html>.

CONCLUSION

Our Nation is being decimated by Federally managed mandatory vaccination from Communist China. Only POTUS (or this Court acting in respect of him) can order the National Security relief necessary to save America.

Healthiest Americans respectfully make this plea for immediate remedy. There is no better time for this action to be taken. There is no better case. There is no better reason. The unvaccinated hold the key to health. Let the data show you.

This case is straightforward: informed consent for all Americans. The era of vaccines as a ‘sacred cow’ is ending. The Article II and III branches should be eager for the opportunity, and must not shirk the responsibility, to review scientific evidence to save America. By dismissing this case with prejudice, did the district court unwittingly dismiss America herself with prejudice?

To do science, we must preserve a group of individuals in their pure natural state. Like desegregation, this case requires POTUS because myriad government

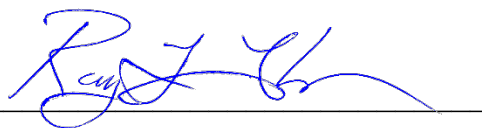
actors have different laws and rules coercing vaccination. We need a national informed consent exemption (NICE), as Healthiest Americans requested.

To the extent Healthiest Americans' request for declaratory relief was considered at all, it was dismissed by devices of (1) entirely ignoring all of Healthiest Americans' key factual allegations which establish nexus and therefore standing, i.e., literally pretending the allegations had not been made, (2) the fallacy that federal courts are powerless to prevent constitutional violations, so long as those violations have at their origin a direct connection to the Executive, (3) the erroneous conclusion that, before the court may hear an action for declaratory relief, the plaintiffs must already qualify for the injunctive enforcement of a remedy that has yet to be created through a declaration of rights, i.e., declaratory relief, which would determine whether injunctive relief is required, and if so, what type of injunction would be appropriate.

Respectfully submitted this 16th of April 2021.



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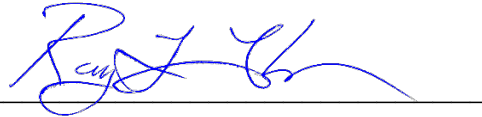
STATEMENT OF RELATED CASES

Petitioners concurrently filed a notice of appeal of the district court action, which was received by this Ninth Circuit Court as Case No. 21-15587.

Respectfully submitted this 16th of April 2021.



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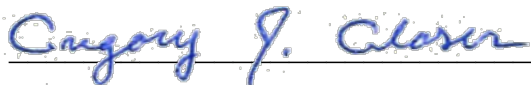
Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

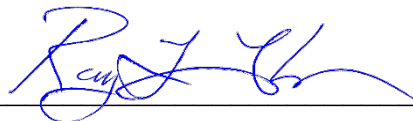
This brief contains **6,448** words in compliance with the word limit set forth in Fed. R. App. P. 21(d)(1). This brief also complies with Circuit Rule 21-2(c) which limits the length of a petition to 30 pages. These counts exclude the items exempted by Fed. R. App. P. 21(a)(2)(C) and Fed. R. App. P. 32(f).

The brief's type and size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

Respectfully submitted this 16th of April 2021.



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Counsel for Petitioners

CERTIFICATE OF SERVICE

Service on Respondents

I certify that a true and correct copies of the **Petition for Writ of Mandamus and four volumes of Excerpts of Record** were delivered in person on April 16, 2021 to the attorney of record for Respondent in the district court action at the address listed below:

Philip A. Scarborough, Esq.
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Attorney for Respondent

Delivery of Copy to Trial Judge

Pursuant to Rule 21(a)(1) of the Federal Rules of Appellate Procedure, copies of the **Petition for Writ of Mandamus and four volumes of Excerpts of Record** were delivered to the Honorable William B. Shubb of the United States District Court for the Eastern District of California, by personal delivery to the courtroom clerk of the Judge on April 16, 2021.

SIGNED on this 16th of April 2021.



Gregory J. Glaser
Attorney for Petitioners