

**No. 21-15587**

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

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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-Appellants,*

v.

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

*Respondent-Appellee.*

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Appeal from the Judgement of 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

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**APPELLANTS' REPLY BRIEF**

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Gregory J. Glaser (SBN 226706)  
4399 Buckboard Drive, Box 423  
Copperopolis, CA 95228  
Ph. (925) 642-6651  
Fx. (209) 729-4557  
[greg@gregglaser.com](mailto:greg@gregglaser.com)

Ray L. Flores II (SBN 233643)  
11622 El Camino Real Suite 100  
San Diego, CA 92130  
Ph. (858) 367-0397  
Fx. (888) 336-4037  
[rayfloreslaw@gmail.com](mailto:rayfloreslaw@gmail.com)

*Counsel for Petitioners*

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## A. Introduction

Well, it's all over the news now – effective September 2021 the President of the United States is openly mass mandating Covid-19 vaccines upon the American people<sup>1</sup> (including the Petitioners in this case)<sup>2</sup> – about half of the Governors across the United States just announced they will also be suing the President in the coming months over the President's vaccine mandates.<sup>3</sup>

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<sup>1</sup> Biden, J. (September 9, 2021). *Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*. THE WHITE HOUSE. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>.

<sup>2</sup> Biden, J. (September 2021). *Covid-19 Action Plan*. THE WHITE HOUSE. <https://www.whitehouse.gov/covidplan/> (The President's six-pronged COVID-19 Action Plan directs the Department of Labor's Occupational Safety and Health Administration (OSHA) to issue an emergency temporary standard (ETS) mandating that private employers with 100 or more employees ensure that all employees are fully vaccinated or undergo weekly negative COVID-19 tests with potentially hefty fines for each violation.).

<sup>3</sup> Wilson, A. et al. (September 16, 2021). *Prelitigation Letter from Attorneys General of 24 States to Joe Biden*. <https://attorneygeneral.utah.gov/wp-content/uploads/2021/09/AGs-letter-to-Pres.-Biden-on-vaccine-mandate-FINAL-02715056xD2C78.pdf> (“We, the Attorneys General of 24 states, write in opposition to your attempt to mandate vaccination of private citizens.... If your Administration does not alter its course, the undersigned state Attorneys General will seek every available legal option to hold you accountable and uphold the rule of law.”).

This case is now being complimented as *prescient* since Petitioners' claims were well ahead of the curve in identifying and suing the obvious and ultimately responsible party: the President.

At some point, the Article III Judiciary needs to explicitly recognize the hard truth: *The President must be enjoined from promoting this pharmaceutical-vaccine experiment that is destroying the American people.*

Now that America's vaccine injury numbers have been counted via health survey of the control group of unvaccinated Americans, there is no Constitutional theory that can disallow the remedy of mandamus. Literally the only way for the President to *attempt* to disprove the staggering evidence against him is by citing to a fully unvaccinated control group. And that group would need to be just as sick as his vaccinated herd. But the President is unable to do so, because every fully unvaccinated control group *ever* studied shows the exact same thing: these unvaccinated people are statistically the healthiest Americans by exponential numbers (in the instant case the number is  $>1,000\%$  healthier).

The math cited in the First-Amended Complaint and Requests for Judicial Notice prove America's chronic illness trajectory will ultimately destroy the country if mandatory vaccination continues. Let us have no illusions about the national security nature of this case: America's enemies, both foreign and domestic,

would very much like to see mandatory vaccination, and increasingly harsh consequences for refusal, to continue on schedule.

**B. Petitioners Have Standing.**

The Petitioners (“Healthiest Americans”) sharply alleged that the Executive branch is responsible for the catastrophic vaccine programs now causing the net destruction of public health in America, with or without mandates. The DOJ's only defense was to claim the Executive branch and its subordinate agencies have nothing to do with any 'vaccine mandates' in America. *See* Dkt. 13, pp. 10, 18 (Opp. Brief) attempting to take the FAC 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. *See* FAVP ¶ 52, 2-ER-212-213.

The President's recent mandates have exposed the DOJ’s absurdly-false defense. The Opposition brief was also peppered with concerns about how "embarrassed" (Dkt. 13, p. 29) the political class in DC would be if Healthiest Americans’ *evidence* in this case was heeded, with other convoluted and wholly-irrelevant arguments.

The DOJ's blatantly false claim that the Executive and its subordinate agencies are not responsible for the vaccine programs complained-of, cannot defeat Healthiest Americans’ standing. Such claims are nothing more than absurdly-abusive, (obviously false) statements of fact. Healthiest Americans clearly and

very directly complained that the President's vaccine programs, with or without mandates, are physically destroying the American people, to such an extent that it is now a mathematical certainty our nation will collapse before the end of this decade if this trajectory is not altered. The judicially-noticeable evidence showed this to be true.

The President has now announced that his "patience is wearing thin" with those Americans who refuse to serve as his personal lab rats. And this was coupled with his announcement that he plans to personally deny these Americans gainful employment. Consequently, the trajectory for the collapse of this Republic at "warp speed" from these vaccine-injuries and deaths, not to mention this newly-accelerated economic crisis, is only exacerbated. Only if the immediate collapse of this Republic is the President's goal, do the President's actions make sense.

To attack Healthiest Americans standing, the DOJ outrageously denied the Executive branch and its subordinate agencies have *anything* to do with vaccine mandates. This attack on Healthiest Americans' standing also relied upon pretending the allegations concerning the imminent collapse of our Nation (via the physical destruction of its people at the hands of the President's nationwide vaccine programs) had not been made. But these allegations plainly had been made, in print, for all to see. They were literally *impossible* to miss, unless of course, these facts were ignored in the first place.



Falsely claiming that Healthiest Americans' complaint does not contain the allegations that it *plainly does contain*, is not a lawful method of defeating Healthiest Americans' standing. Simply denying the existence of that which is *printed in plain English*, filed, and published online as such *for all to see* is a woefully-inadequate means of disposing of a complaint, just because it might "embarrass" some powerful politicians to have it heard. A judge's claim that these statements of fact were never made in the complaint, does not alter the fact that *they were made*.

The *Executive Branch and its subordinate agencies* directing the country are wholly responsible for the vaccine programs currently destroying this Republic. These facts must no longer be ignored.

### **C. The Storm Is Here.**

With a heart-felt but stern warning letter, Healthiest Americans advised President Trump in September 2020 that math proves the vaccine injury storm was calculated by trajectory to end our nation soon.

A few months later, with this respectful and scientifically vetted lawsuit, Healthiest Americans again warned President Trump that vaccine mandates must not be tolerated. It is a matter of our utmost national security to respect the unvaccinated (such as plaintiffs), as they hold the key to health and the scientific method that can save this country from the mathematical trajectory.

Justifying its premature dismissal of this case in February 2021 against the Office of the President, the District Court's Opinion ignored the obvious; when it determined:

- (1) The President does not mandate vaccines and is not responsible for the people he pays to mandate vaccines.<sup>4</sup>
- (2) The President is not responsible for the national vaccine program signed into law by his predecessor in the 1960s and enforced by the Office of the President on a daily basis.<sup>5</sup>

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<sup>4</sup> See District Court Order at 1-ER-7, line 22 through 1-ER-8, line 7 (“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.”)

<sup>5</sup> See District Court Order at 1-ER-8, line 24 through 1-ER-9, line 28 (“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. [footnote follows] 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’ Fifth Amendment and other rights. (See *id.* at ¶ 107.) Plaintiffs further contend that

The mental acrobatics for these erroneous conclusions would be impressive if no one was harmed, but the American people *are* being harmed daily by the President's shots.

So, here we are now in the Autumn of 2021, countless Americans are dead and dying around us *because of* the President's vaccines. Nations with the lowest vaccination rates (both developing countries and developed countries) are thriving, while nations with the highest vaccination rates are suffering and dying.<sup>6</sup>

Attorneys General across the United States are gearing up for litigation against the President over his unlawful vaccine mandates.

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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.")

<sup>6</sup> In the example of coronavirus vaccination, compare vaccine uptake rates (<https://ourworldindata.org/covid-vaccinations>) to deaths from any cause. And note the low uptake countries that are thriving. *See, e.g.,* Guerrero, R et al. (2020). *Covid-19: The Ivermectin African Enigma*. CLOMB MED (Cali). Dec 30;51(4):e2014613. <https://pubmed.ncbi.nlm.nih.gov/33795896/>. And consider alternative media sources citing official national data, such as Roberts, PC (September 7, 2021). *The Powerful Case Against Covid MRNA Vaccine*. THE UNZ REVIEW. <https://www.unz.com/proberts/the-powerful-case-against-covid-mrna-vaccine/>.

Will our Article III Judiciary recognize the utility of scientific control groups now? The majority of the American people want to remain healthy and naturally immune.

**D. Judicial Review Is Appropriate.**

The DOJ claims Petitioners are misusing the judicial process by suing the President. Not so. In Petitioners' opening brief no false statements are made.

The DOJ appears to be out-of-touch with what the American people are experiencing and discussing in real time about vaccines, and now that the President is openly mandating vaccines, no one can realistically hide from the facts (or from the needles).

**E. The DOJ Has Lost Touch With The American People.**

The DOJ is engaged in hypocritical scientism ('faith in the conclusions of certain experts but not others') rather than actual science that learns from control groups. Rather than cite science to counter Healthiest Americans' documented and authoritative scientific citations in this case, the DOJ lawyer replied with the label 'conspiracy theory'. No evidence was presented by the DOJ to support its label, only some appeals to authority. Meanwhile the very same government authorities referenced in Healthiest Americans' requests for judicial notice are citations the DOJ intentionally ignores. A catch-22.

Healthiest Americans are the control group, their bodies are the evidence that unvaccinated people are exponentially healthier.

As poll data confirm the American people, in increasing numbers are no longer buying the ‘vaccinate or else’ government narratives. The American people are confirming every day that unvaccinated people are the healthiest people and have superior immune systems:

- Daily Expose (September 8, 2021). *80% of Covid-19 deaths in August were people who had been vaccinated according to Public Health data.* DAILY EXPOSE.  
<https://theexpose.uk/2021/09/08/exclusive-80-percent-of-covid-19-deaths-in-august-were-people-who-had-been-vaccinated/>
- Mercola, J. (September 15, 2021). *Shockingly, CDC Now Lists Vaccinated Deaths as Unvaccinated.* MERCOLA HEALTH NEWS.  
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- Whitney, M. (September 16, 2021). *The Conspiracy Theorists Were Right; It IS a ‘Poison-Death Shot’.* THE UNZ REVIEW.  
<https://www.unz.com/mwhitney/the-conspiracy-theorists-were-right-it-is-a-poison-death-shot/>

Etcetera. Etcetera. Etcetera.

Healthiest Americans could endlessly regale this Ninth Circuit Court with still more national data exposing vaccines, and still more data proving the superior health of the unvaccinated, but the record for appeal is already sufficient on these points. The issues are clear, the parties’ positions are known. Frankly, those who do not observe falsities in the alphabet agency narratives do not lack access to

information, but rather probably lack the wherewithal to publicly scrutinize government narratives on the vaccine issue.

## F. Magnetism

Multiple different independent scientists have proven that Covid-19 vaccines contain magnetic substances,<sup>7</sup> but the DOJ is currently disclaiming<sup>8</sup> the emerging evidence.

The DOJ cannot deny the possibility that magnetic properties in a vaccine could cause magnetism in the recipient. The DOJ's fearful attempt to mock Petitioners' counsel is a transparent tactic to dissuade the Ninth Circuit from even reading Petitioners' brief. Such a tactic should not be countenanced.

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<sup>7</sup> See, e.g., KYODO NEWS (September 1, 2021). *Foreign matter in Moderna Covid vaccine identified as stainless metal*. <https://english.kyodonews.net/news/2021/09/e0e7e2eac475-foreign-matter-in-moderna-covid-vaccine-identified-as-stainless-metal.html>.

Patent CN112220919A regarding technological capability and motivation to use magnetic component in a coronavirus vaccine.

<https://patents.google.com/patent/CN112220919A/en> (“The new corona vaccine contains graphene oxide, carnosine, CpG and new corona virus RBD; binding carnosine, CpG and neocoronavirus RBD on the backbone of graphene oxide...”)

Madrid, P (June 28, 2021). *Graphene Oxide Detection In Aqueous Suspension Observational Study In Optical And Electron Microscopy*. Interim Report. [https://dubito.s3.eu-central-1.amazonaws.com/dubito-v2/2021/6/5/1625477461946-1\\_compressed.pdf](https://dubito.s3.eu-central-1.amazonaws.com/dubito-v2/2021/6/5/1625477461946-1_compressed.pdf).

<sup>8</sup> See the DOJ's quote in Dkt. 13, p. 21 (“They assert that COVID-19 vaccines turn recipients “magnetic” and alter their genetic makeup. *See id.* at 21-22.... These allegations are patently frivolous.”).

Indeed, if scientists ever wanted to prove whether vaccines with a known magnetic ingredient can cause a person to display signs of magnetism, scientists would need an unvaccinated scientific control group (i.e., Healthiest Americans here are that control group). In addition to the DOJ ignoring the science, it would appear the DOJ is also not thinking through their own flawed arguments.

The President's goal to eradicate the control group is anti-science. And the DOJ is at the very least, unintentionally acting very un-American in trying to help him exterminate natural peoples whose rights are inalienable.

The DOJ's backward logic on this case appears to be as follows: 'Under no theory could the Petitioners' factual allegations support a finding that the President and his subordinate agencies be responsible for the vaccine programs which the Petitioners have clearly alleged are responsible for the wholesale destruction of public health in America.'

## **G. Conclusion**

The elephant in the room is the data showing the national vaccine program is destroying America. In our system of checks and balances, it is the Judiciary's job to stop the Executive from violating the Constitution.

The Petitioners' allegations, and the evidence that these allegations are all true, will live on, regardless of the District Court's denial that the Petitioners have complained of these things. And the District court's outright denial that these

allegations were present in the complaint, will live on as well, but another denial could live on *in infamy*.

Petitioners are counting on this Court to carefully consider the pleadings. The public is now reading them.

The DOJ's claim that the President and his subordinate agencies *are in no way responsible* for the vaccine-programs complained of, does not alter the truth. The President and his subordinate agencies are *directly responsible* for perpetrating the harms that Healthiest Americans have complained of.

Under a Fed. R. Civ. Proc. (12)(b) dismissal, the court had no discretion to simply pretend that the primary allegations, which *firmly* established that the President and his subordinate agencies are responsible for the acts complained of, were not made.

The Plaintiffs have standing. They seek declaratory relief from involuntary service as subjects in the President's medical experiments, and to be free of any deprivation of rights as retribution for their refusal to thusly serve. The Fifth Amendment protects bodily integrity. The Thirteenth Amendment prohibits involuntary servitude of any kind. Absolute and fundamental rights uplift this case.

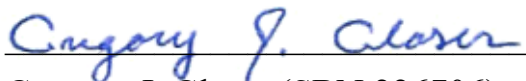
The Constitution prohibits the President from coercing any American into involuntary servitude in the vaccinated experimental group. In order for science and law to even function, courts must respect a control group of natural peoples.



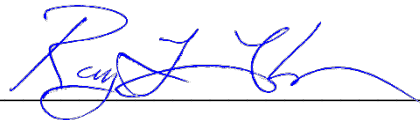
Precisely zero is the number of alternatives to a genuine control group.

Mandamus is necessary.

Respectfully submitted this 29th of September 2021.



Gregory J. Glaser (SBN 226706)  
4399 Buckboard Drive, Box 423  
Copperopolis, CA 95228  
Ph. (925) 642-6651  
Fx. (209) 729-4557  
[greg@gregglaser.com](mailto:greg@gregglaser.com)



Ray L. Flores II (SBN 233643)  
11622 El Camino Real Suite 100  
San Diego, CA 92130  
Ph. (858) 367-0397  
Fx. (888) 336-4037  
[rayfloreslaw@gmail.com](mailto:rayfloreslaw@gmail.com)

*Counsel for Petitioners*

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