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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF WASHINGTON**

15 Hanford Security Police Officers)
16 DAVID G. DONOVAN and) **CASE NO. 4:21-cv-5148**
17 CHRISTOPHER J. HALL, United)
18 States Department of Energy employee) **COMPLAINT FOR**
19 STEPHEN C. PERSONS, Safety Bases) **INJUNCTIVE AND**
20 Compliance Officer THOMAS R.) **DECLARATORY RELIEF**
21 ARDAMICA, *et al.*) **AND DAMAGES**
22 Plaintiffs,)

23 v.) **JURY DEMANDED**
24)
25)

26 BRIAN VANCE as Manager of the)
27 UNITED STATES DEPARTMENT)
28 OF ENERGY Hanford Site, VALERIE)
29 MCCAIN, as Vit Plant Project)
30 Director, BECHTEL, SCOTT SAX as)
31 President and Project Manager of)
32 CENTRAL PLATEAU CLEANUP)
33 COMPANY, ROBERT WILKINSON)
34 as President and Program Manager of)
35 HANFORD MISSION INTEGRATED)

1 SOLUTIONS, LLC., DON HARDY as)
 Manager of HANFORD)
 2 LABORATORIES MANAGEMENT)
 AND INTEGRATION 222-S)
 3 LABORATORY MANAGER, HIRAM)
 4 SETH WHITMER as President and)
 Program Manager, HPM)
 5 CORPORATION, STEVEN ASHBY)
 6 as Laboratory Director, PACIFIC)
 NORTHWEST NATIONAL)
 7 LABORATORY, JOHN)
 8 ESCHENBERG as President and Chief)
 Executive Officer of WASHINGTON)
 9 RIVER PROTECTION SOLUTIONS,)
 10 JOSEPH R. BIDEN, President of the)
 United States of America.)
 11 Defendants.)

12)
13)
14 **INTRODUCTION**

15 1. Plaintiffs, workers at the Hanford Site (collectively “Employees”) come to this
16 Court seeking relief regarding their imminent and wrongful termination.

17 2. Defendants are on notice that the Hanford Site will have insufficient workers,
18 including Hanford Guards and other employees required to maintain a minimum safe
19 (“min safe”) work environment at the Hanford Site as of November 29, 2021, absent a
20 change in position.
21

22 3. The Employees come to this Court seeking emergency relief, challenging
23 Executive Order 14042 and Executive Order 14043 (the “Executive Orders”) each on
24 its face and as applied.
25

1 4. The Employees further challenge the application of the Executive Orders by
2 specific employers to each Plaintiff's individual situation.

3 **VENUE AND JURISDICTION**

4 5. This Court has jurisdiction pursuant to 28 USC §§ 1331 & 1343.

6 6. Venue is proper in this Court where the Defendants reside in and/or act in their
7 official capacities in the Eastern District of Washington pursuant to 28 USC § 1391.
8 Each factor is located within this District as the United States Department of Energy
9 Hanford Site is located in the Eastern District.

10 **PARTIES**

11 ***Defendants***

12 7. Defendant Brian Vance is the Manager of the United States Department of
13 Energy ("DOE") Hanford Site ("Hanford Site").

14 8. Defendant Valerie McCain is the Vit Plant Project Director for Bechtel.
15 Bechtel is a DOE prime contractor performing work at the Hanford Site.

16 9. Defendant Scott Sax is the President and Project Manager of Central Plateau
17 Cleanup Company ("CPCCo"). CPCCo is a DOE prime contractor performing work at
18 the Hanford Site.

19 10. Defendant Robert Wilkinson is the President and Program Manager of
20 Hanford Mission Integrated Solutions, LLC. ("HMIS"). HMIS is a DOE prime
21 contractor performing work at the Hanford Site.

1 11. Defendant Don Hardy is the 222-S Laboratory Manager for Hanford
2 Laboratories Management and Integration (“HLMI”). HLMI is a DOE prime contractor
3 performing work at the Hanford Site.

4
5 12. Defendant Hiram Seth Whitmer is the President and Program Manager, HPM
6 Corporation (“HPMC”). HPMC is a DOE prime contractor performing work at the
7 Hanford Site.

8
9 13. Defendant Steven Ashby is the Laboratory Director, Pacific Northwest
10 National Laboratory (“PNNL”). PNNL is managed and operated by Battelle Memorial
11 Institute a prime DOE contractor.

12
13 14. Defendant John Eschenberg is the President and Chief Executive Officer of
14 Washington River Protection Solutions (“WRPS”). WRPS is a DOE prime contractor
15 performing work at the Hanford Site.

16
17 15. Defendant Joseph R. Biden is the President of the United States who issued
18 Executive Orders 14042 and 14043.

19 ***Plaintiffs***

20
21 16. David G. Donovan is a security police officer and a K9 handler for Hanford
22 Patrol with HMIS and is the president of the Hanford Guards Union; he has submitted
23 a religious exemption, accepted by HMIS, but has been provided no accommodation.

24
25 17. Christopher J. Hall is a security police officer III with HMIS, he has
submitted a religious exemption, accepted by HMIS, but has been provided no

1 accommodation. Mr. Hall has natural immunity as he has contracted COVID-19.

2 18. Stephen C. Persons is an accountant with DOE, he has submitted a religious
3 exemption, accepted by DOE, but has been provided no accommodation.

4 19. Thomas R. Ardamica is a safety bases compliance officer for WRPS, he
5 submitted a medical exemption and a religious exemption. Mr. Ardamica's medical
6 exemption was denied, but his religious exemption was accommodated, allowing him
7 to work from home but subjecting Mr. Ardamica to weekly COVID-19 testing
8 measures, masking restrictions while outside his dedicated telework location; these
9 requirements exceed the exemption provided in the OSHA standards.
10
11

12 20. Jeff Ahlers is a Transportation for CPCCo, he has submitted a religious
13 exemption, accepted by CPCCo, but has received no accommodation. Mr. Ahlers has a
14 positive COVID-19 antibody test and is willing to adhere to social distance and mask-
15 wearing requirements.
16

17 21. Cody Almquist is a senior health physics/radiological controls technician for
18 CPCCo, he has submitted a religious exemption, accepted by CPCCo but has received
19 no accommodation.
20

21 22. Douglas Anderson is employed with Bechtel (WTCC), he has submitted a
22 religious exemption, accepted by Bechtel, but has received no accommodation.
23

24 23. Cyrus Anderson is a systems engineer for WRPS, he has submitted a religious
25 exemption, accepted by WRPS, but has received no accommodation.

1 24. Kevin Arena is a security police officer I for HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but has been provided no accommodation.

3 25. Miguel Arredondo is a security police officer with HMIS, he has submitted a
4 religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 26. Don Baker is a senior radiological control technician for CPCCo, he has
7 submitted a religious exemption, accepted by CPCCo, but has been provided no
8 accommodation.
9

10 27. Dayna Coffey Ardamica is an administrator level II manager for WRPS, she
11 submitted a religious exemption, which WRPS approved and included continued
12 teleworking (which she has done successfully for 20 months), but required weekly
13 COVID-19 testing at her personal time and expense, which fails to recognize the OSHA
14 exemption for teleworkers.
15

16 28. Kora Bales is a security police officer with HMIS.

17 29. Tain Ballantyne is a security police officer III for HMIS, he has submitted a
18 religious exemption, accepted by HMIS, but has been provided no accommodation.
19

20 30. Daniel Beam is a security police officer with HMIS.

21 31. Jess Bean is a worker at the Hanford Site and a laborer for the Local 348 at
22 American Electric, has submitted a religious exemption but has been provided no
23 accommodation.
24

25 32. Jared Betker is a security police officer III for HMIS, he has submitted a

1 religious exemption, accepted by HMIS, but has been provided no accommodation.

2 33. William Bingham is a senior project manager for WRPS he has submitted a
3 religious exemption, accepted by WRPS, but has been provided no accommodation.

4 34. Luis Blanco is a security police officer II for HMIS, he has submitted a
5 religious exemption, accepted by HMIS, but has been provided no accommodation.
6

7 35. Erik Bombard is a security police officer II/tactical response team member
8 for HMIS, he has submitted a religious exemption, accepted by HMIS, but has been
9 provided no accommodation.
10

11 36. James Booth is an engineering supervisor for Bechtel, he has submitted a
12 religious exemption, accepted by the city, and has been provided a temporary
13 teleworking accommodation through February 7, 2022.
14

15 37. Stephanie Boschert is a health physicist for WRPS, she has submitted a
16 religious exemption, accepted by WRPS, but has been provided no accommodation.
17

18 38. Bryan Brophy is a nuclear chemical operator for CPCCo, he has submitted a
19 religious exemption, accepted by CPCCo, but has been provided no accommodation.

20 Mr. Brophy tested positive for COVID-19 antibodies on August 27, 2021.

21 39. Luke Bultena is a security police officer III for HMIS, he has not submitted
22 an exemption request.
23

24 40. I. C. is a security police officer II for HMIS, and has submitted a religious
25 exemption, accepted by HMIS, but has been provided no accommodation.

1 41. George Case is an operations specialist for Amentum (WRPS) and submitted
2 a medical exemption, which was accepted by Amentum (WRPS), but has been provided
3 no accommodation.

4 42. Rene Catlow is a risk management manager at CPCCo who initially sought a
5 medical exemption, but her provider would not affirm, so she submitted a religious
6 exemption, which was accepted by CPCCo, but she has been provided no
7 accommodation. Ms. Catlow offered that she could telework full-time and complete
8 weekly COVID-19 testing, and CPCCo denied the request.
9
10

11 43. Benjamin Chavez is a planning and scheduling manager for TerraGraphics,
12 he has submitted a religious and a medical exemption, accepted by TerraGraphics, but
13 has been provided no accommodation. Mr. Chavez has natural immunity as he had a
14 severe battle with COVID-19 between August 2021 and November 2021.
15

16 44. Nick Chacon is a security police officer with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but has been provided no accommodation.
18

19 45. Mary Christianson is a senior engineer for Bechtel, she has submitted a
20 religious exemption, accepted by Bechtel, she has teleworked since March 2020, and
21 her accommodation is continued telework with mandatory COVID-19 testing until
22 February 2021, exceeding the OSHA standards.
23

24 46. Justin Clancy is a nuclear chemical officer with WRPS who had a severe
25 adverse reaction to prior vaccines and submitted a medical exemption and has been

1 advised by his doctor to not take the second shot, he has been provided no
2 accommodation.

3 47. Todd Clark is a sheet metal worker for HMIS, he has sought a religious
4 accommodation and offered to pay for testing, but he has been provided no
5 accommodation.
6

7 48. Margaret Clark is a project support specialist for CPCCo, she has submitted
8 a religious exemption, accepted by CPCCo, but has been provided no accommodation.
9

10 49. Becky Colborn works for HMIS and submitted religious exemption accepted
11 by HMIS but has been provided no accommodation.

12 50. David Cole is a senior work planner for WRPS, he has submitted a religious
13 exemption, accepted by WRPS, but has been provided no accommodation.
14

15 51. Mary Cole is an operations support specialist for CPCCo, she has submitted
16 a religious exemption, accepted by CPCCo, but has been provided no accommodation.
17

18 52. Dodd Coutts is a security police officer III with HMIS, he has submitted a
19 religious exemption, accepted by HMIS, but has been provided no accommodation.

20 53. James Cuevas is a security police officer I with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but has been provided no accommodation.
22

23 54. DawnLeigh Curtis is a nuclear chemical operator for WRPS, she has
24 submitted a religious exemption, accepted by WRPS, but has been provided no
25 accommodation. Ms. Curtis can provide proof of a positive COVID-19 antibody test.

1 55. Kelly Custer is a senior internal auditor for CPCCo, she has submitted a
2 religious exemption, accepted by CPCCo, but has been provided no accommodation.

3 56. D. N. is a firefighter captain/EMT with HMIS; he has submitted a religious
4 exemption, accepted by HMIS, but has been provided no accommodation.
5

6 57. Jeffrey Daniels is a project controls officer with the United States Department
7 of Energy (“DOE”), he has submitted a religious exemption, accepted by DOE, but has
8 been provided no accommodation.
9

10 58. Jamie Davies works for PNNL as a dosimetry technician; she has submitted
11 a religious exemption, accepted by PNNL, but has been provided no accommodation.

12 59. Scott Dawson is an industrial hygiene technician with WRPS; he has
13 submitted a religious exemption, accepted by WRPS, but has been provided no
14 accommodation.
15

16 60. Briana DeLine is a security police officer I with HMIS, she received both
17 COVID-19 shots in April 2021, and has submitted an exemption request from future
18 booster shots. HMIS informed Ms. DeLine that no prospective exemptions would be
19 offered at this time.
20

21 61. Darryn DeLine is an industrial hygiene technician for WRPS, he has
22 submitted a religious exemption, accepted by WRPS, but has been provided no
23 accommodation.
24

25 62. Drew Diedrich is an industrial hygiene technician for WRPS, he has

1 submitted a religious exemption, accepted by WRPS, but has been provided no
2 accommodation.

3 63. John Doell is a security police officer I with HMIS, he has submitted a
4 religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 64. Jake Domit is a security police officer III with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but has been provided no accommodation.
8

9 65. Steve Donaldson is a firefighter/EMT with HMIS, he has submitted a
10 religious exemption, accepted, and HMIS provided accommodations, including
11 COVID-19 testing and mask-wearing, but those accommodations have since been
12 rescinded, and Mr. Donaldson is left with the option of receiving the COVID-19
13 vaccination or termination.
14

15 66. Kathryn Draper is an environmental specialist for WRPS, she has submitted
16 a religious exemption, accepted by WRPS, but has been provided no accommodation.
17 Ms. Draper tested positive for COVID-19 on August 2, 2021.
18

19 67. Mike Eddy is an IT specialist with DOE, he has submitted a religious
20 exemption, accepted by DOE, but has been provided no accommodation.
21

22 68. Alexandria Edwards is an insulator with CPCCo she has submitted a religious
23 exemption, accepted by CPCCo, but has been provided no accommodation.
24

25 69. Mary Ruth Edwards is an operations support specialist with CPCCo, she has
submitted a religious exemption, accepted by CPCCo, but has been provided no

1 accommodation.

2 70. Luke Ellis is a pipefitter with HMIS, he has submitted a religious exemption,
3 accepted by HMIS, but has been provided no accommodation.

4 71. Jesse Elvik is a security police officer I with HMIS, he has submitted a
5 religious exemption, accepted by HMIS, but has been provided no accommodation.
6

7 72. Zachery Eslick is a security police officer II for HMIS, he has submitted a
8 religious exemption, accepted by HMIS, but has been provided no accommodation.
9

10 73. Eric Espinoza is a security police officer with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but has been provided no accommodation.

12 74. Cheryl Evosevich is an emergency preparedness coordinator for CPCCo, she
13 has submitted a religious exemption, accepted by CPCCo, but has been provided no
14 accommodation.
15

16 75. Adam Faries is a security police officer III with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but has been provided no accommodation.
18

19 76. Marcus Faries is a mechanical engineer with WRPS, he has submitted a
20 religious exemption, accepted by WRPS, but has been provided no accommodation.

21 77. Robyn Faris is an officer manager with Columbia Energy, she has submitted
22 a religious exemption, accepted by Columbia Energy but has been provided no
23 accommodation.
24

25 78. Thomas Farris a security police officer I with HMIS, he has submitted a

1 religious exemption, accepted by HMIS, but has been provided no accommodation.

2 79. Jennifer Fish is a shift operations manager, building emergency director, and
3 fieldwork supervisor for CPCCo, she has submitted a religious exemption, accepted by
4 CPCCo, but has been provided no accommodation.
5

6 80. Randy Fox is a stationary operating engineer with CPCCo, he has submitted
7 a religious exemption, accepted by CPCCo, but has been provided no accommodation.
8

9 81. Michael Frazier is a property specialist with WRPS, he has submitted a
10 religious exemption, accepted by WRPS, but has been provided no accommodation.

11 82. Sharon Freeland is an admin IV training scheduler with Veolia, a
12 subcontractor to CPCCo, she has submitted a religious and a medical exemption,
13 accepted by Veolia, but has been provided no accommodation.
14

15 83. Dorothy Frenzel is a health physics technician for WRPS and has been
16 provided no accommodation.

17 84. Paul Frenzel is a health physics technician for HMIS and has been provided
18 no accommodation.
19

20 85. Daniel Gabbard is a security police officer for HMIS and has been provided
21 no accommodation.
22

23 86. Jennifer Gardner works for HMIS, she has submitted a religious exemption,
24 accepted by HMIS, but has been provided no accommodation.

25 87. James Gagnon is an industrial property management specialist for DOE, he

1 has submitted a religious exemption, accepted by DOE, but has been provided no
2 accommodation.

3 88. Efren Garcia is a security police officer II with HMIS and is vaccinated, but
4 opposes requirements for a booster shot.
5

6 89. Eric Garcia is a security police officer with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but has been provided no accommodation.
8

9 90. Jaime Garcia is a security police officer with HMIS, he has submitted a
10 religious exemption, accepted by HMIS, but has been provided no accommodation.

11 91. John Garfield works for WRPS, he has submitted a religious exemption,
12 accepted by WRPS, but has been provided no accommodation.
13

14 92. Matthew Garlick is an engineer at WRPS, he has submitted a religious
15 exemption, accepted by WRPS, but has been provided no accommodation.
16

17 93. Chris George is a security police officer with HMIS.

18 94. Ben Giese is an instrument technician with HMIS, he has submitted a
19 religious exemption, accepted by HMIS, but has been provided no accommodation.
20

21 95. Don Giese is an instrument technician with HMIS, he has submitted a
22 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
23 Giese will be forced to retire early if COVID-19 vaccination remains a requirement to
24 retain his employment.
25

96. Brandon Gimlin is a radiological control technician for WRPS, he has

1 submitted a religious exemption, accepted by WRPS, but has been provided no
2 accommodation.

3 97. Crystal Girardot is an engineer that works for WRPS, she has submitted a
4 religious exemption, accepted by WRPS, but has been provided no accommodation.
5

6 98. Levi Glatt is a security police officer III with HMIS, he received the first
7 vaccination and objects to further vaccinations and has been provided no
8 accommodation.
9

10 99. Heather Goldie is a director of workforce engagement and legacy benefits for
11 HMIS, she submitted a religious exemption, accepted by HMIS, but has been provided
12 no accommodation.
13

14 100. Michael Gomez is a security police officer II with HMIS, he has submitted
15 a religious exemption, accepted by HMIS, but has been provided no accommodation.
16

17 101. Enrique Gonzales is a headquarter captain and has submitted a religious
18 exemption but has been provided no accommodation.
19

20 102. Christopher Goodsel is a health physics technician with WRPS, he has
21 submitted a religious exemption, accepted by WRPS, but has been provided no
22 accommodation. He has natural immunity as provide from a positive antibody test; Mr.
23 Goodsel also offered to pay for testing on his own to retain his employment, and his
24 employer rejected this offer.
25

103. Michelle Gradin is a janitor for HMIS, she has submitted a religious

1 exemption, accepted by HMIS, but has been provided no accommodation.

2 104. Delmer Graham is a security police officer with HMIS.

3 105. Matthew Gray is a shift supervisor with the Hanford Patrol of HMIS, he has
4 submitted a religious exemption, accepted by HMIS, but has been provided no
5 accommodation.
6

7 106. Jerry Gridley is an operations specialist with HMIS, he has submitted a
8 religious exemption, accepted by HMIS, but has been provided no accommodation.
9

10 107. Jose Gutierrez is a security police officer I with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but has been provided no accommodation.
12

13 108. Joseph Hade is a senior health physics/ radiological control technician for
14 CPCCo, he has submitted a religious exemption, accepted by CPCCo, but has been
15 provided no accommodation.

16 109. Levi Hamby is a security police officer III with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but has been provided no accommodation.
18

19 110. Eric Hanson works for WRPS, he has submitted a religious exemption,
20 accepted by WRPS, and has received a conditional, temporary (60-day) accommodation
21 that includes teleworking.
22

23 111. Cameron Hardy works as a public affairs specialist for DOE, he has
24 submitted a religious exemption, accepted by DOE, but has been provided no
25 accommodation.

1 112. Douglas Hart is an instrumentation specialist with HMIS, he has submitted
2 a religious exemption, accepted by HMIS, but has been provided no accommodation.
3 Mr. Hart has a positive COVID-19 antibody test.

4 113. Marguerite Hart is a contracts technician with HPMC; she has submitted a
5 religious exemption, accepted by HMIS, but has been provided no accommodation.
6

7 114. Nicole Hart is a contracts specialist II with PNNL; she has submitted a
8 religious exemption, accepted by PNNL, but has been provided no accommodation.
9

10 115. Tim Hart is a security police officer I with HMIS; he received the first
11 COVID-19 vaccination and refuses to obtain a second vaccination. Mr. Hart also has
12 natural antibodies.

13 116. Victor Hart is a senior labor relations specialist with HMIS; he has
14 submitted a religious exemption, accepted by HMIS, but has been provided no
15 accommodation.
16

17 117. Chamise Hartman is a pipefitter for WRPS she has submitted a religious
18 exemption, accepted by WRPS, but has been provided no accommodation.
19

20 118. Pamela Hartsock is a technical writer/editor with CPCCo; she has submitted
21 a religious exemption, accepted by HMIS, but has been provided no accommodation.
22

23 119. Joshua Hatch is a firefighter/EMT with HMIS and was provided the
24 accommodation of weekly testing at his own time and expense.

25 120. Ron Havens is a truck driver with HMIS, he has submitted a religious

1 exemption, accepted by HMIS, but has been provided no accommodation.

2 121. Kory Hebdon is a security police officer with HMIS.

3 122. Larry Herbert is an electrical planner with WRPS, he has submitted a
4 religious exemption, accepted by WRPS, but has been provided no accommodation.
5

6 123. Katie Henderson is a contracting professional with PNNL she has submitted
7 a religious exemption, accepted by PNNL, but has been provided no accommodation
8 despite having teleworked since March 2019 and being willing to provide a negative
9 COVID-19 test prior to entering the workplace.
10

11 124. Joshua Herrick is a safety representative with WRPS, he has submitted a
12 religious exemption, accepted by WRPS, but has been provided no accommodation.
13 Mr. Herrick has natural immunity from having had COVID-19 and has tested positive
14 for COVID-19 antibodies.
15

16 125. Lee Holmes is a maintenance specialist with Amentum he has submitted a
17 religious exemption, accepted by Amentum, but has been provided no accommodation.
18

19 126. Joy Houchin is employed with PNNL, she has submitted a medical
20 exemption as she has a history of adverse vaccine reactions. Ms. Houchin's request was
21 accepted by PNNL, and it remains under review.
22

23 127. Marvin Huck is a teamster/driver with HMIS he has submitted a religious
24 and a medical exemption, accepted by HMIS, but has been provided no accommodation.
25 Mr. Huck has a positive COVID-19 antibody test from November 3, 2021.

1 128. Adam Huckleberry is a training specialist (instructor) at the Hanford Patrol
2 Training Facility with HMIS he has submitted a religious exemption, accepted by
3 HMIS, but has been provided no accommodation. Mr. Huckleberry has a positive
4 natural immunity as demonstrated by a positive COVID-19 antibody test and is willing
5 to pay for COVID-19 testing and wear a mask while on the worksite, and will telework,
6 as needed. HMIS denied Mr. Huckleberry's proposed accommodations.
7

8 129. Robin Hudson is a senior health physics technician with HLMI, she has
9 submitted a religious and a medical exemption, accepted by HLMI. She was offered a
10 60-day accommodation of weekly COVID-19 testing and mask usage.
11

12 130. James Ireland is a teamster with HMIS, he has submitted a religious
13 exemption, accepted by HMIS, but has been provided no accommodation.
14

15 131. Daniel Irish is a security police officer III and a sniper with HMIS, he has
16 submitted a religious exemption, accepted by HMIS, but has been provided no
17 accommodation.
18

19 132. J. I. is a firefighter, he has submitted a religious exemption, accepted by his
20 employer and received an accommodation of mask-wearing and weekly testing, and the
21 accommodation was subsequently revoked. J. has had and recovered from, COVID-19.
22

23 133. Eric Ison is an engineering manager with CPCCo, he has submitted a
24 religious exemption, accepted by CPCCo, but has been provided no accommodation.
25 Mr. Ison has a positive COVID-19 antibody test.

1 134. Rodger Iverson is a security police officer II for HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but has been provided no accommodation.

3 135. Miguel Iztas is a security police officer for HMIS.
4

5 136. Bryce Jackson is a security police officer II for HMIS, he has submitted a
6 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
7 Jackson has a positive COVID-19 antibody test.

8 137. Joel Jackson is a journeyman radiological technician for Bechtel, he has
9 submitted a religious exemption, accepted by Bechtel, but has been provided no
10 accommodation.
11

12 138. Kenneth Jarman is a data scientist for PNNL, he has submitted a religious
13 exemption, accepted by PNNL, but has been provided no accommodation as his request
14 remains pending.
15

16 139. Raymond Jeffers is a fire protection coordinator with Bechtel, he has
17 submitted a religious exemption, accepted by Bechtel, but has been provided no
18 accommodation.
19

20 140. Gardiner Jeffrey is a security police officer with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but has been provided no accommodation.
22

23 141. Johnathan Johns is a security police officer II with HMIS, he has submitted
24 a religious exemption, accepted by HMIS, but has been provided no accommodation.

25 142. Kami Johns is a shift operations manager with CPCCo, she has submitted a

1 religious exemption, accepted by CPCCo, but has been provided no accommodation.

2 143. Timothy Johns is a security police officer III with HMIS, he has submitted
3 a religious exemption, accepted by HMIS, but has been provided no accommodation.

4 144. Bonnie Johnson is a senior financial professional with WRPS, she has
5 submitted a religious exemption, accepted by WRPS, but has been provided no
6 accommodation.

7 145. Christopher Johnson is decommissioning and deactivation technician with
8 CPCCo, he has submitted a religious exemption, accepted by CPCCo, but has been
9 provided no accommodation.
10

11 146. James Jones is an electrical engineer, he has submitted a religious
12 exemption, but has been provided no accommodation. Mr. Jones had a positive COVID-
13 19 test on August 2, 2021.

14 147. Faith Kaanapu is a Bechtel employee, she has submitted a religious
15 exemption, accepted by Bechtel, and was offered a temporary accommodation requiring
16 weekly negative COVID-19 test results, which she opposes, until February 2022.

17 148. Mark Kamberg is an environmental scientist with HMIS, he has submitted
18 a religious exemption, accepted by HMIS, but has been provided no accommodation.

19 149. Frank Kearny is a pipefitter with PNNL, he has submitted a religious
20 exemption, accepted by PNNL, but has been provided no accommodation.

21 150. Brian Keelean is a radiological control technician for HMIS, he has
22

1 submitted a religious exemption, accepted by HMIS, but has been provided no
2 accommodation.

3 151. Keith Keller is a project controls engineer, earned value management system
4 for WRPS, he has submitted a religious exemption, accepted by WRPS, but has been
5 provided no accommodation.
6

7 152. Mahlon Kerwick is a security police officer II with HMIS, he has submitted
8 a religious exemption, accepted by HMIS, but has been provided no accommodation.
9

10 153. Ronald Knight is an instrument technician with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but has been provided no accommodation.

12 154. Mark Knight is Teamster with HMIS, he has submitted a religious
13 exemption, accepted by HMIS, but has been provided no accommodation.
14

15 155. Karl Kohne is a lead crane operator with CPCCo, he has submitted a medical
16 exemption, accepted by CPCCo, but has been provided no accommodation.

17 156. Kerry Kost is employed with WRPS, she has submitted a religious
18 exemption, accepted by WRPS, but has been provided no accommodation.
19

20 157. Patrick Krzan is a canine handler with the Hanford Patrol, for HMIS, he is
21 vaccinated and opposes booster shots and is seeking accommodation from booster shots
22 with HMIS.
23

24 158. Dustin Lamm is a security police officer II with HMIS, he has not submitted
25 a religious exemption, and opposes the mandatory vaccination.

1 159. Ryan Lansing is a security police officer IIIC with HMIS, he has submitted
2 a religious exemption, accepted by HMIS, but has been provided no accommodation.

3 160. Gil Leal is a security police officer I with HMIS, he has submitted a religious
4 exemption, accepted by HMIS, but has been provided no accommodation.
5

6 161. Sharon Leinen is an operations support specialist with HMIS, she has
7 submitted a religious exemption, accepted by HMIS, has received a temporary, 60-day
8 accommodation.
9

10 162. Brianna Leitz is a senior health physics technician with WRPS, she has
11 submitted a religious exemption, accepted by WRPS, but has been provided no
12 accommodation.

13 163. Justin Lettau is a security police officer II with HMIS, he has submitted a
14 religious exemption, accepted by HMIS, but has been provided no accommodation.
15

16 164. Carl Lindstrom is employed with Bechtel (WTCC), he has submitted a
17 religious exemption, accepted by Bechtel, but has been provided no accommodation.
18

19 165. Bradley Loosveldt is a work control planner with TerraGraphics, he has
20 submitted a religious exemption, accepted by TerraGraphics, but has been provided no
21 accommodation.
22

23 166. Corey Low is employed with DOE, he has submitted a religious exemption,
24 accepted by DOE, is awaiting a determination from DOE, and has been provided no
25 accommodation.

1 167. Oscar Lucatero is a security police officer II with HMIS, he has submitted
2 a religious exemption, accepted by HMIS, but has been provided no accommodation.

3 168. Phillip Love is a security police officer with HMIS.
4

5 169. Gale Lyon is an operations specialist with CPCCo, he has submitted a
6 religious exemption, accepted by CPCCo, the accommodation provided to Mr. Lyon is
7 temporary (up to 60 days) and consists of weekly testing at his own expense.
8

9 170. Ismael Magallanes is a security police officer with HMIS, he has submitted
10 a religious exemption, accepted by HMIS, but has been provided no accommodation.
11 Mr. Magallanes tested positive for COVID-19 in December 2020.

12 171. Matthew Malin is a mechanical work planner with Amentum, he has
13 submitted a religious exemption, accepted by Amentum, but has been provided no
14 accommodation.
15

16 172. Jairo Martin is a security police officer with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but has been provided no accommodation.
18

19 173. David Martinez is a firefighter/EMT with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
21 Martinez has positive COVID-19 antibodies.
22

23 174. Byron Massie is employed with CPCCo, he has submitted a religious
24 exemption, accepted by CPCCo, but has been provided no accommodation.

25 175. James Matte is an industrial hygienist with HMIS, he has submitted a

1 religious exemption, accepted by HMIS, but has been provided no accommodation.

2 176. Trent Maxwell is a security police officer with HMIS.

3 177. Sam McCarley is a security police officer III with HMIS, he has submitted
4 a religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 178. Joe Meier is a journeyman carpenter with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
8 Meier has tested positive for COVID-19 antibodies.
9

10 179. Norma Mendoza works for WRPS, she has submitted a religious exemption,
11 accepted by HMIS, but has been provided no accommodation.

12 180. Cory Meyer is an electrician with CPCCo, he has submitted a religious
13 exemption, accepted by CPCCo, but has been provided no accommodation.
14

15 181. Kyle Meyer is a radiological control first line supervisor with WRPS, he has
16 submitted a religious exemption, accepted by WRPS, but has been provided no
17 accommodation.
18

19 182. Kevin Milford is a maintenance specialist, IV with HMIS, he has submitted
20 a religious exemption, accepted by HMIS, but has been provided no accommodation.

21 183. Darren Miller is a security police officer II with HMIS, he has submitted a
22 religious exemption, accepted by HMIS, but has been provided no accommodation.
23

24 184. Benjamin Minter is a security police officer with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but has been provided no accommodation.

1 185. Jeremy Miranda is a security police officer with HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but has been provided no accommodation.

3 186. Derik Moe is a security police officer with HMIS, he has submitted a
4 religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 187. Trent Mooney is a health physicist with WRPS, he has submitted a religious
7 exemption, accepted by WRPS, but has been provided no accommodation.

8 188. Ryan Moore is a security police officer III with HMIS, he has submitted a
9 religious exemption, accepted by HMIS, but has been provided no accommodation.
10

11 189. Joelle Moss is a hazardous materials specialist with WRPS, she has
12 submitted a religious exemption and has a predisposition to blood clots, accepted by
13 WRPS, and has been provided temporary accommodation.
14

15 190. Ryleigh Morrison is a health physics technician with CPCCo, she he has
16 submitted a religious exemption, accepted by CPCCo, but has been provided no
17 accommodation. She has had COVID-19.
18

19 191. Daniel Morrow is an electrical fieldwork supervisor with HMIS, he has
20 submitted a religious exemption, accepted by HMIS, but has been provided no
21 accommodation.
22

23 192. Allen Morris is employed with Bechtel (WTCC), he has submitted a
24 religious exemption, accepted by WTCC, but has been provided no accommodation.

25 193. Jennifer Mullen-Morris is a radiological control technician/health physics

1 technician with WRPS, he has submitted a religious exemption, accepted by WRPS, but
2 has been provided no accommodation.

3 194. Patrick Murphy is a security police officer I with HMIS who has been
4 provided no accommodation.
5

6 195. Paul Naef is employed by Northwest Power, a sub-contractor to Bechtel, he
7 has submitted a religious exemption, accepted by Northwest Power, but has been
8 provided no accommodation.
9

10 196. Celeste Nelson is a firefighter/EMT with HMIS, she has submitted a
11 religious exemption, accepted by HMIS, but has been provided no accommodation.

12 197. Johnny Neer is a nuclear operator with CPCCo, he has submitted a religious
13 exemption, accepted by CPCCo, but has been provided no accommodation.
14

15 198. Tobin Neyens is a security police officer, K-9 with HMIS.

16 199. Marco Nicacio is employed with WRPS, he has submitted a religious
17 exemption, accepted by WRPS, but has been provided no accommodation.
18

19 200. Matt Nichol is a security police officer I with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but has been provided no accommodation.

21 201. Jeffery Nielson is a central shift manager with WRPS, he has submitted a
22 religious exemption, accepted by WRPS, but has been provided no accommodation.
23

24 202. Ivan Nunez is a security police officer II with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but has been provided no accommodation.

1 203. Juan Nunez is a security police officer with HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but has been provided no accommodation.

3 204. Kelly O'Brien is an executive assistant with CPCCo, she has submitted a
4 religious exemption, accepted by CPCCo; she was offered accommodation, and
5 accepted most of the conditions, excepting weekly testing, which exceed current OSHA
6 standards.
7

8 205. Angela Ojeda is the office manager of Ojeda Business Ventures ("OBV"),
9 a construction sub-contractor to CPCCo, HMIS, and WRPS seeking to apply COVID-
10 19 antibodies or natural immunity to its workforce. CPCCo has threatened termination
11 of OBV contract if OBV fails to implement a COVID-19 vaccine mandate. 78% of
12 OBV's workforce has tested positive for COVID-19 antibodies, either through natural
13 immunity or vaccination.
14
15

16 206. Luis Ojeda is the office manager of Ojeda Business Ventures, a construction
17 sub-contractor to CPCCo, HMIS, and WRPS seeking to apply COVID-19 antibodies or
18 natural immunity to its workforce. CPCCo has threatened termination of OBV contract
19 if OBV fails to implement a COVID-19 vaccine mandate.
20

21 207. William Olson is a facility manager at the 242A site with WRPS, he has
22 submitted a medical exemption, accepted by WRPS, and was provided a temporary (60
23 day) exemption, and is seeking a permanent exemption.
24

25 208. Mark Oslin is a security police officer with HMIS, he has not submitted an

1 exemption and has been offered no accommodations.

2 209. William Owen is a contractor to DOE with AttainX, he has submitted a
3 religious exemption, accepted by DOE, but has been provided no accommodation.

4 210. Patrick Paeschke is a journeyman electrician with PNNL, he has submitted
5 a religious exemption, accepted by PNNL, but has been provided no accommodation.

6 211. Stuart Palmer is a security police officer with HMIS.

7 212. Nicholas Parker is a project controls associate with CPCCo, he has
8 submitted a religious exemption, accepted by CPCCo, and was provided a 60-day
9 accommodation that requires weekly COVID-19 testing at his expense and on his own
10 time.
11

12 213. Jeff Parrish is a journeyman insulator for CPCCo, he has submitted a
13 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
14 Parrish is aware of other CPCCo personnel working in similar physical circumstances
15 who have received accommodations.
16

17 214. Kevin Patterson is a nuclear chemical operator for CPCCo, he has submitted
18 a religious exemption, accepted by CPCCo, but has been provided no accommodation.
19

20 215. Brandon Patton is a security police officer with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but has been provided no accommodation.
22

23 216. Zachary Pike is a decommissioning and deactivation technician with
24 CPCCo, he has submitted religious exemption, accepted by CPCCo, but has been
25

1 provided no accommodation.

2 217. Brian Pisca is a security police officer III with HMIS, he has submitted a
3 religious exemption, accepted by HMIS, but has been provided no accommodation.

4 218. Jesse Potter is a security police officer III with HMIS, he has submitted a
5 religious exemption, accepted by HMIS, but has been provided no accommodation.

6 219. Kelly Poynor is a security police officer II with HMIS who has submitted a
7 religious exemption, accepted by HMIS, but has been provided no accommodation.
8

9 220. Bryan Raeder is a senior radiological control technician/health physics
10 technician for CPCCo, he has submitted a religious exemption, accepted by CPCCo,
11 but has been provided no accommodation.
12

13 221. Agapito Ramos is a security police officer II with HMIS, he has submitted
14 a religious exemption, accepted by HMIS, but has been provided no accommodation.
15

16 222. Kevin Reberger is a work control planner with WRPS, he has submitted a
17 religious exemption, accepted by WRPS, but has been provided no accommodation.
18

19 223. Howard Reed is a fire protection engineer with Bechtel, he has submitted a
20 religious exemption, accepted by Bechtel, but has been provided no accommodation.

21 224. Matthew Reed is a security police officer III with HMIS, he has submitted
22 a religious exemption, accepted by HMIS, but has been provided no accommodation.
23

24 225. Robert Reynolds is a firefighter/EMT with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but has been provided no accommodation.

1 226. Ryan Richardson is a security police officer III with HMIS, he has submitted
2 a religious exemption, accepted by HMIS, but has been provided no accommodation.

3 227. Ryder Richardson is a security police officer II with HMIS, he has submitted
4 a religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 228. Greg Richter is a security police officer III with HMIS, he has submitted an
7 exemption from the COVID-19 vaccine, but he has been provided no accommodation.
8

9 229. Ryan Rickenbach is a design services manager with WRPS, he has submitted
10 a religious exemption, accepted by WRPS, but has been provided no accommodation.

11 230. Ramon Riojas is a maintenance electrician with CPCCo, he has submitted a
12 religious exemption, accepted by CPCCo, but has been provided no accommodation.
13 Mr. Riojas has a positive COVID-19 antibody test.
14

15 231. Martin Rios Magana is a security police officer II with HMIS, he has
16 submitted a religious exemption, accepted by HMIS, but has been provided no
17 accommodation.
18

19 232. Michael Riplinger is employed with Bechtel (WTCC), he has submitted a
20 religious exemption, accepted by Bechtel, but has been provided no accommodation.
21 He has two positive COVID-19 antibody tests.
22

23 233. Ernesto Rivas is a security police officer with HMIS, he has submitted a
24 religious exemption, accepted by HMIS, but has been provided no accommodation.

25 234. June Robinson is a senior industrial hygienist with PNNL.

1 235. Staci Rockey is an office administrator with Amentum, LLC, she has
2 submitted a religious exemption, accepted by Amentum, but has been provided no
3 accommodation.

4 236. Gregory Rodenburg, II is a security police officer II with HMIS, he has
5 submitted a religious exemption, accepted by HMIS, but has been provided no
6 accommodation.
7

8 237. Manuel Rodriguez is a security police officer with HMIS, he has received
9 the first COVID-19 vaccine, but desires not to obtain the second vaccine as an
10 infringement of his bodily autonomy.
11

12 238. Jaime Rodriguez is a security police officer II with HMIS, has submitted an
13 exemption request, which was accepted by HMIS, but has been provided no
14 accommodation.
15

16 239. Lori Rogers is a health physics technician with WRPS, she has submitted a
17 religious exemption, accepted by WRPS, but has been provided no accommodation.
18

19 240. Ryan Rosenthal is a security police officer with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but has been provided no accommodation.
21

22 241. Leisha Rowe is a radiological control manager, she has submitted a religious
23 exemption, accepted by her employer, but has been provided no accommodation.
24

25 242. Mischelle Russell is a senior radiological technician with CPCCo, she has
submitted a religious exemption, accepted by CPCCo, but has been provided no

1 accommodation.

2 243. Jamison Saddler is a security patrol officer I with HMIS, he has submitted
3 a religious exemption, accepted by HMIS, but has been provided no accommodation.

4 244. Kyle Saltz is security police officer II with HMIS, he has submitted a
5 religious exemption, accepted by HMIS, but has been provided no accommodation.
6

7 245. William Samson is a chemical operator with CPCCo, he has submitted a
8 religious exemption, accepted by CPCCo, but has been provided no accommodation.
9

10 246. Oscar Sanchez is a security police officer with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but has been provided no accommodation.

12 247. Matthew Sanders is a quality assurance engineer with HMIS, he has
13 submitted a religious exemption, accepted by HMIS, and has been provided
14 accommodation of weekly testing and work from home in a different job position.
15

16 248. Joel Savage is a paramedic/firefighter with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but has been provided no accommodation. Mr.
18 Savage has a positive COVID-19 antibody test and is willing to adhere to social distance
19 and mask-wearing requirements as an accommodation.
20

21 249. Rick Schieffer is a radiation protection supervisor with HMIS, he has
22 submitted a religious exemption, accepted by HMIS, but has been provided no
23 accommodation.
24

25 250. Jacob Schmid is a firefighter/EMT with HMIS, he has submitted a religious

1 exemption, accepted by HMIS, but has been provided no accommodation.

2 251. Jessica Schuette is a project specialist/buyer technical representative with
3 WRPS, she has submitted a religious exemption, accepted by WRPS, was initially
4 provided no accommodation, but has recently received a temporary teleworking
5 accommodation.
6

7 252. John Schuette is an engineering manager with Bechtel (WTCC project), he
8 has submitted a religious exemption, accepted by Bechtel, and has been provided a
9 temporary accommodation of teleworking until February 2022.
10

11 253. Devin Shelby is a security police officer II with HMIS, he has submitted a
12 religious exemption, accepted by HMIS, but has been provided no accommodation.
13

14 254. Jeff Short is a firefighter with HMIS, he has submitted a religious
15 exemption, accepted by HMIS, but has been provided no accommodation. Mr. Short
16 has a positive COVID-19 antibody test and is willing to adhere to wearing a mask and
17 weekly testing.
18

19 255. Steve Short is an engineering supervisor with Bechtel, he has submitted a
20 religious exemption, accepted by Bechtel, and has been provided temporary
21 accommodation teleworking until February 2022.
22

23 256. Thomas Sichler is a health physicist with CPCCo, he has submitted a
24 religious exemption, accepted by CPCCo, but has been provided no accommodation.
25 Mr. Sichler declared that he is aware of CPCCo accommodating similarly situated

1 individuals.

2 257. Gidget Silvers is a health physics technician lead with WRPS, she has
3 submitted a religious exemption, accepted by WRPS, but has been provided no
4 accommodation.

5
6 258. Stephen Simmons is a preventative maintenance planner with Bechtel.

7 259. Andrea Sims is a clerk, III with WRPS, she has submitted a religious
8 exemption, accepted by WRPS, but has been provided no accommodation. Ms. Sims
9 has a positive COVID-19 antibody test and is willing to adhere to social distancing,
10 wearing a mask, and regular testing.
11

12 260. Daniel Sims is a security police officer III with HMIS, he has submitted a
13 religious exemption, accepted by HMIS, but has been provided no accommodation.
14

15 261. Edward Sinclair is employed as safety and health programs specialist with
16 WRP.

17 262. John Sisemore is a sheet metal worker with Bechtel (WTCC project), he has
18 submitted a religious exemption, accepted by Bechtel, but has been provided no
19 accommodation. Mr. Sisemore has a positive COVID-19 antibody test and is willing to
20 wear a mask and test weekly.
21

22 263. Cathy Slape is employed with HMIS and has health issues, she he has
23 submitted a religious exemption, accepted by HMIS, but has been provided no
24 accommodation.
25

1 264. Gabe Slape is employed with CPCCo, he has submitted a religious
2 exemption, accepted by CPCCo, but has been provided no accommodation.

3 265. Derek Small is a security police officer III with HMIS, he has submitted a
4 religious exemption, accepted by HMIS, but has been provided no accommodation.
5

6 266. Gregory Smith is a teamster/truck driver for WRPS, he has submitted a
7 religious exemption, accepted by WRPS, but has been provided no accommodation.

8 267. Shad Smith is a steamfitter with HMIS, he has submitted a religious
9 exemption, accepted by HMIS, but has been provided no accommodation.
10

11 268. Stephen Smith is an electrical engineer with WRPS, he has submitted a
12 religious exemption, accepted by WRPS, but has been provided no accommodation.
13

14 269. William Smoot is a health physicist with WRPS, he has submitted a
15 religious exemption, accepted by WRPS, but has been provided no accommodation.
16

17 270. Todd Sommerville is a maintenance material specialist with WRPS, he has
18 submitted a religious exemption, accepted by WRPS, but he has been provided no
19 accommodation.

20 271. Krisheena Stajduhar is a procurement specialist with WRPS, she has
21 submitted a religious exemption, accepted by WRPS, and has been provided
22 teleworking accommodations that require weekly COVID-19 testing, which exceed the
23 OSHA standards.
24

25 272. Damon Stanley is a carpenter for CPCCo, he has submitted a religious

1 exemption, accepted by CPCCo, but has been provided no accommodation.

2 273. Kirsten Stanley is a stock and tool crib attendant for CPCCo, she has
3 submitted a religious exemption, accepted by CPCCo, but has been provided no
4 accommodation.

5
6 274. David Storaci is an operations specialist III with Amentum, he has submitted
7 a religious exemption, accepted by Amentum, but has been provided no
8 accommodation.

9
10 275. Joseph Stowman is a custodian with HMIS, he has submitted a religious
11 exemption, accepted by HMIS, but has been provided no accommodation.

12 276. William Sullivan is employed with WRPS, he has submitted a religious
13 exemption, accepted by HMIS, but has been provided no accommodation. Mr. Sullivan
14 also has health issues, including cysts on his kidneys.

15
16 277. Carl Sutherland is a security patrol officer II with HMIS, he has submitted
17 a religious exemption, accepted by HMIS, but has been provided no accommodation.

18
19 278. April Swofford is a parts manager with Veolia a subcontractor to CPCCo,
20 she has submitted a religious exemption, accepted by Veolia, but has been provided no
21 accommodation at CPCCo direction.

22
23 279. Roger W. Szelmeczka is an environmental specialist with WRPS seeking a
24 religious accommodation, accepted by WRPS, but has been provided no
25 accommodation.

1 280. Linda Thomas is a chemist with PNNL, she is seeking a religious and a
2 medical accommodation, accepted by PNNL, but she has been provided no
3 accommodation.

4 281. James Thorne is a work control planner with WRPS seeking a religious
5 accommodation, accepted by WRPS, but he has been provided no accommodation.
6

7 282. Andrew Tucker is a firefighter/EMT with HMIS, he received the COVID-
8 19 vaccine in August and September of 2021, and he did not apply for an exemption.
9

10 283. Daniel Turlington is an environmental compliance officer with CPCCo,
11 seeking a religious accommodation, but he has been provided no accommodation.

12 284. Amanda Tyler is a civil engineer with WRPS she has submitted a religious
13 exemption, accepted by WRPS, but has been provided no accommodation.
14

15 285. Aric Tyler is a mechanical engineer with CPCCo, he has submitted a
16 religious exemption, accepted by CPCCo, but has been provided no accommodation.
17

18 286. Eva Upchruch is a supply chain administrator with CPCCo he has submitted
19 a religious exemption, accepted by CPCCo, but has been provided no accommodation.

20 287. Brandt Urwin is a fieldwork supervisor seeking a religious accommodation.

21 288. Jeff VanDerPol is a nuclear safety specialist with DOE, he has submitted a
22 religious accommodation, accepted by DOE, but has been provided no accommodation.
23

24 289. Angela Villareal is an operations support specialist with HMIS, she has
25 submitted a religious exemption, accepted by HMIS, but has been provided

1 290. Aaron Webber is a security police officer III with HMIS, has sought the
2 accommodation to maintain the status quo with mask-wearing and social distancing,
3 and has had no accommodation.

4 291. Ryan Weideman is a security police officer II with HMIS, he has submitted
5 a religious exemption, accepted by HMIS, but has been provided no accommodation.
6

7 292. Shari Weisberg is a project controls specialist with Corporate Allocation
8 Service/Katami Government Services, she has submitted a religious exemption,
9 accepted by Katami, and was granted the accommodation to complete weekly or bi-
10 weekly testing.
11

12 293. Shawn D. Welker is a captain with Hanford Patrol, whose employer is
13 HMIS, he has submitted a religious exemption, accepted by HMIS, but has been
14 provided no religious accommodation.
15

16 294. Hans Wellenbrock is a communications specialist with CPCCo he has
17 submitted a religious exemption, accepted by CPCCo. He was granted a temporary
18 accommodation for 60 days (February 2022), which requires weekly COVID-19
19 testing, exceeding the OSHA standards.
20

21 295. Trent Wellner is a security police officer III with HMIS, he has submitted a
22 religious exemption, accepted by HMIS, but has been provided no accommodation.
23

24 296. Tobin Wells is a senior radiology technician seeking religious
25 accommodation.

1 297. Kristina Whalen is an operation support specialist with CPCCo, she has
2 submitted a religious exemption, accepted by CPCCo, but has been provided no
3 accommodation.

4 298. Daniel Wharton is an is an electrician with PNNL, he has submitted a
5 religious exemption, accepted by PNNL, but has been provided no accommodation.
6

7 299. Nathaniel Wick is a security police officer III with HMIS, he has submitted
8 a religious exemption, accepted by HMIS, but has been provided no accommodation.
9

10 300. Wendy Wilde is a work control PM planner with CPCCo, she has submitted
11 a religious exemption, accepted by CPCCo, but has been provided no accommodation.

12 301. Keaton Williams is a security police officer with HMIS, he has submitted a
13 religious exemption, accepted by HMIS, but has been provided no accommodation.
14

15 302. Logan Williams is an industrial hygiene technician for WRPS, he has
16 submitted a religious and medical exemption as he was hospitalized from COVID-19
17 in September 2021, remains on oxygen, and is still recovering from COVID-19. On
18 October 15, 2021, Mr. Williams' doctor provided a note, stating that he is a "poor
19 candidate" for the COVID-19 vaccine. His exemption was accepted by WRPS, but Mr.
20 Williams has been provided no accommodation.
21

22 303. Brian Williamson is a Health Physicist with WRPS, he has submitted a
23 religious exemption, accepted by WRPS, but has been provided no accommodation.
24

25 304. Nathaniel Wilson is a project engineer with WRPS, he has submitted a

1 religious exemption, accepted by HMIS, but has been provided no accommodation.

2 305. Robert Wood is project manager with WRPS, he has submitted a religious
3 exemption, accepted by WRPS, but has been provided no accommodation.

4 306. Paul Wulff is a janitor at the Hanford Site he has submitted a religious
5 exemption, accepted by employer, but has been provided no accommodation. Mr. Wulff
6 has a positive COVID-19 antibody test.
7

8 307. Tim York is an electrician with HMIS, he has submitted a religious
9 exemption, accepted by HMIS, but has been provided no accommodation. Mr. York has
10 a positive COVID-19 antibody test.
11

12 308. Robert Zane is an industrial hygienist with CPCCo, he has submitted a
13 religious exemption, accepted by CPCCo, but has been provided no accommodation.
14

15 **FACTS**

16 309. On September 9, 2021, President Joseph R. Biden issued Executive Order
17 14042 requiring vaccination of all employees of federal contractors.
18

19 310. On September 9, 2021, President Joseph R. Biden issued Executive Order
20 14043 requiring vaccination of all federal employees.

21 311. On November 5, 2021, the Occupational Safety and Health Administration
22 promulgated an Emergency Temporary Standard, published at 29 CFR 1910, Subpart
23 U (the “ETS”).
24

25 312. The ETS is significantly less restrictive than the Executive Orders as it

1 provides exceptions to the vaccination requirements for remote and outdoor and also
2 allows for unvaccinated employees to mask and test. The Executive Orders allow for
3 no such exemptions.

4
5 313. The DOE and its several contractors, Bechtel, Battelle Memorial Institute's
6 Pacific Northwest National Laboratory, Hanford Mission Integrated Solutions, LLC,
7 Hanford Laboratories Management, HPM Corporation, and Washington River
8 Protection Solutions, refuse to provide religious or medical accommodations in many
9 cases, and in the few cases where such accommodations are offered, they are transitory
10 in nature. These requests arbitrarily demand that Plaintiffs and other staff of these
11 entities become vaccinated by December 8, 2021, or by some other arbitrary date.

12
13
14 314. While accepting every single exemption as sincere, Defendant entities have
15 accommodated very few, if any, exemption seeking personnel.

16
17 315. Some similarly situated personnel employed by other DOE contractors
18 performing work at the Hanford Site are receiving religious and medical exemptions to
19 the same vaccination requirement. Likewise, other similarly situated personnel within
20 the community (local police and firefighting personnel) are not subjected to a COVID-
21 19 vaccination requirement.

22
23 316. Defendants' decisions are arbitrary and capricious where some DOE
24 Hanford contractors are not subject to the same requirements.

25 317. Defendants' decisions are arbitrary and capricious where they fail to account

1 for natural immunity.

2 318. Despite months of contact tracing, as evidenced by a November 5, 2021
3 response to a FOIA request, the CDC possesses no record of individuals with natural
4 immunity becoming reinfected and infecting another individual.
5

6 319. Defendants' decisions will unnecessarily endanger the lives of the citizens
7 of Benton County and surrounding areas as the Hanford Guard Unit will be significantly
8 understaffed, resulting in limited protection of the Hanford Site and the general public.
9

10 320. Defendants' actions are further demonstrated to be arbitrary, capricious, and
11 intended to be discriminatory against protected classes, where the mandate applies to
12 individuals who telework or work entirely outdoors.
13

14 321. Defendants' decisions are arbitrary and capricious where some Plaintiffs
15 could be accommodated by utilizing PPE and testing, in accordance with OSHA
16 regulations, and Defendants still refuse to accommodate the individual.
17

18 322. In addition to risking public safety, wrongful termination of these
19 individuals could expose the United States and its contractors to millions of dollars in
20 liability for lost wages and pensions, along with other damages, including loss of
21 benefits.
22

23 323. On September 30, 2021, DOE's Head of Contracting Activity for the Office
24 of Environmental Management, Angela Whatmore issued a Memorandum, which
25 monetarily incentivized DOE contractors to vaccinate their workforce as much as

1 possible. The Memorandum:

2 a. Directed DOE “Contracting Officers to execute unilateral modifications to the
3 Performance Evaluation Measurement Plans and Award Fee Plans by October 8, 2021;”

4 b. Authorized Contracting Officers to “indicate to the contractor that they may
5 propose a 50/50 fee sharing option of \$1000 per worker for this metric;”
6

7 c. Allowed these incentives to “be added to the safety and health subjective
8 criteria, or as a stand-alone metric;” and
9

10 d. Provided that the “Contractor Performance Assessment Reporting System
11 (CPARS) shall accurately reflect the contractor's performance in FY21 and FY22
12 regarding safety and health of its workforce as it relates to proactive initiatives to stop
13 the spread of COVID-19, including promoting vaccination of the workforce.”
14

15 **FIRST CAUSE OF ACTION**

16 **Free Exercise of Religion**

17 324. Plaintiffs incorporate each of the Complaint allegations stated above herein.
18

19 325. Plaintiffs with sincere religious beliefs, which prohibit their taking the
20 vaccination, have had those beliefs accepted as sincere by their respective employers.

21 326. Individuals determining COVID-19 exemption requests are effectively
22 religious gerrymandering by refusing to accommodate the overwhelming majority of
23 religious objectors.
24

25 327. Each employer could accomplish its same purported compelling purpose by

1 merely following the OSHA standards set forth in the Motion attached hereto (Page 2),
2 by requiring testing for COVID-19 and mask-wearing for individuals working indoors.

3 328. Defendants could also take temperatures and continue to social distance.

4 329. As indicated above, some of the Plaintiffs have had COVID and possess
5 natural immunity, such natural immunity should be considered – those Plaintiffs could
6 be accommodated by the Defendants doing nothing and still achieve their purported
7 compelling purpose of protecting against the spread of COVID-19.
8

9 **SECOND CAUSE OF ACTION**

10 **Equal Protection**

11 330. Plaintiffs incorporate each of the Complaint allegations stated above herein.

12 331. The equal protection clause of the Fourteenth Amendment to the U.S.
13 Constitution requires the government to treat an individual in the same manner as others
14 in similar conditions and circumstances.
15

16 332. The Fourteenth Amendment further recognizes and guarantees fundamental
17 rights and liberty interests of personal autonomy and bodily integrity.
18

19 333. Some DOE Hanford contractors are allowing accommodations.

20 334. The Executive Orders are significantly more restrictive than the ETS.

21 335. As indicated above, some of the Plaintiffs have had COVID and possess
22 natural immunity, such natural immunity should be considered – those Plaintiffs could
23 be accommodated by Defendants doing nothing and still achieving their purported
24
25

1 compelling purpose.

2 336. Plaintiffs are entitled to equal protection under the law; they are not
3 receiving it.

4
5 **THIRD CAUSE OF ACTION**

6 **Violation of the Americans with Disabilities Act**

7 337. Plaintiffs incorporate each of the Complaint allegations stated above herein.

8 338. Some Plaintiffs have medical conditions that prohibit them from receiving
9 the COVID-19 vaccine.

10
11 339. Mr. Clancy's medical professional provided a letter that stated he should be
12 exempted from the COVID-19 vaccination due to prior adverse reactions to
13 vaccinations.

14
15 340. Mr. Clancy's history of adverse vaccine reactions make it medically
16 unreasonable, and possibility fatal, for him to take the vaccine.

17 341. Mr. Clancy's medical history constitutes a disability under the ADA.

18
19 342. Mr. Clancy is being terminated despite his known disability, which could be
20 accommodated without undue hardship if his employer exempted him from the
21 COVID-19 vaccination and provided alternative accommodations.

22 343. Mr. Clancy is entitled to a reasonable accommodation under the ADA.

23
24 344. Likewise, Mr. Logan Williams, who remains on oxygen from a recent battle
25 with COVID-19, has a note from his doctor stating that Mr. Williams is a candidate for

1 a COVID-19 vaccination exemption. Mr. Williams' employer has failed to respect his
2 doctor's professional opinion and maintains the mandate that Mr. Williams become
3 vaccinated against COVID-19.

4
5 345. Several other Plaintiffs are in a similar situation, where a Plaintiff's own
6 medical professional has advised against the COVID-19 vaccine due to an individual's
7 health condition and/or historical adverse reactions to vaccinations.

8 **FOURTH CAUSE OF ACTION**

9 **Wrongful Termination**

10
11 346. Plaintiffs incorporate each of the Complaint allegations stated above herein.

12 347. Absent declaratory and injunctive relief, the Plaintiffs will be wrongfully
13 terminated in violation of Title VII of the Civil Rights Act and Washington Law Against
14 Discrimination. Absent declaratory or injunctive relief, Plaintiffs will each,
15 individually, have been damaged in an amount to be determined at trial

16
17 **FIFTH CAUSE OF ACTION**

18 **Breach of Contract**

19
20 348. Plaintiffs incorporate each of the Complaint allegations stated above herein.

21 349. There exists a binding contract relationship between each Plaintiff his or her
22 individual employer.

23
24 350. Each Plaintiff has an independent property right in their pension.

25 351. Defendants have made it clear they intend to breach each Plaintiffs' contract

1 with the respective Defendant.

2 352. Defendants' actions violate the Contracts Clause of the Constitution of the
3 United States of America.

4 353. Absent declaratory or injunctive relief, Plaintiffs will each, individually,
5 have been damaged in an amount to be determined at trial.
6

7 **SIXTH CAUSE OF ACTION**

8 **Intentional or Negligent Infliction of Emotional Distress**

9
10 354. Plaintiffs incorporate each of the Complaint allegations stated above herein.

11 355. Defendants engaged in extreme and outrageous conduct toward Plaintiffs.

12 356. The complained of conduct was intentional and/or reckless.

13 357. The complained of conduct actually resulted in severe emotional distress to
14 Plaintiffs.
15

16 358. Absent declaratory or injunctive relief, Plaintiffs will each, individually,
17 have been damaged in an amount to be determined at trial.
18

19 **SEVENTH CAUSE OF ACTION**

20 **Infringement of Privacy Rights**

21 359. Plaintiffs incorporate each of the Complaint allegations stated above herein.

22 360. Plaintiffs have a privacy right in their religious practice.

23 361. Plaintiffs have a privacy right in their bodily integrity.

24 362. Both rights have been violated in the way that Plaintiffs' sincere beliefs and
25

1 medical concerns have been challenged and disparaged by Defendants.

2 **EIGHTH CAUSE OF ACTION**

3 **Violation of the Procurement Act (40 U.S.C. §§ 101 and 121)**

4 363. Plaintiffs incorporate each of the Complaint allegations stated above herein.

5
6 364. The purpose of the Procurement Act is to provide the Federal Government
7 with an “economical and efficient system” for, among other things, procuring and
8 supplying property and nonpersonal services. 40 U.S.C. § 101. The Executive Orders,
9 however, will actually and materially undermine the efficient and economical delivery
10 of property and services by disrupting the continuity of the contractor workforce.
11

12 365. The purpose of the Procurement Act is *not* to impose a sweeping vaccination
13 mandate on broad swaths of the American people or to use the federal procurement
14 system as a proxy for implementing a nationwide public health mandate.
15

16 366. The Procurement Act empowers the President to “prescribe policies and
17 directives that [he] considers necessary to carry out [the Procurement Act.]” 4
18 U.S.C. § 121(a). Those policies “*must* be consistent with” the Procurement Act’s
19 purpose, i.e., promoting economy and efficiency in federal contracting. *Id.* § 121(a)
20 (emphasis added).
21

22 367. The President has failed to demonstrate a “nexus” between the Executive
23 Orders and the Procurement Act’s purpose of promoting an “economical and efficient
24 system” for federal contracting. 40 U.S.C. § 101; *see Am. Fed’n of Lab. & Cong. of*
25

1 *Indus. Organizations v. Kahn*, 618 F.2d 784, 793 (D.C. Cir. 1979) (explaining that the
2 Procurement Act is violated when the President does not demonstrate a “nexus”
3 between executive action and the Procurement Act’s policy). The Procurement Act’s
4 text obligates the President to exercise his statutory authority “consistently with [the
5 Act’s] structure and purposes.” *Id.*

7 368. Instead, the Executive Orders exceed the President’s Procurement Act
8 authority by directing the Task Force, without a demonstrable nexus to the
9 Procurement Act’s purpose, to prescribe a sweeping public health scheme.

11 369. Here, the text of the Procurement Act clearly demonstrates that Congress
12 has not authorized the Executive Orders, and thus, the Executive Orders violate the
13 Procurement Act.

15 370. Further, before the executive branch may regulate a major policy question
16 of “great and economic and political significance”—such as mandating vaccination for
17 every employee of every federal contractor in the country—Congress must “speak
18 clearly” to assign the authority to implement such a policy. *Ala. Ass’n of Realtors v.*
19 *Dep’t of Health & Hum. Servs.*, 141 S. Ct. 2485, 2489 (2021) (citing *Util. Air Regul.*
20 *Grp. v. E.P.A.*, 573 U.S. 302, 324 (2014)).

23 371. When the federal government intrudes on a traditional state function, it must
24 clearly articulate the scope of the intrusion and the rationale behind its unprecedented
25

1 action, which it has not done here. *Gregory v. Ashcroft*, 501 U.S. 452, 463–64(1991).

2 372. The Executive Orders implicate critical issues of federalism as public health
3 and the regulation of inoculation regimes are traditional state functions.

4 373. Because the statutory language that the President relies on to issue The
5 Executive Orders do not contain a clear statement affirmatively sanctioning the broad
6 scope of the Executive Orders, they violate the Procurement Act.
7

8 374. Therefore, under both the plain text of the Procurement Act and the clear
9 statement principle, it is unlawful, and thus the Executive Orders are unenforceable.
10

11 **NINTH CAUSE OF ACTION**

12 **Violation of Federal Procurement Policy (41 U.S.C. § 1707(a))**

13 375. Plaintiffs incorporate each of the Complaint allegations stated above herein.
14

15 376. Pursuant to 41 U.S.C. § 1707(a)(1), a procurement policy may not take
16 effect until 60 days after it is published for public comment in the Federal Register if
17 it relates to the expenditure of appropriated funds; and has a significant effect beyond
18 the internal operating procedures of the issuing agency; or has a significant cost or
19 administrative impact on contractors or offerors.
20

21 377. The Executive Orders will require contractors to develop, implement, and
22 monitor a host of new policies and procedures impacting, for some contractors, their
23 entire workforce. In order to fully comply with the Executive Orders, contractors will
24
25

1 have to fire any covered employee who refuses to be vaccinated and has not asserted an
2 exemption.

3 378. Federal agencies will have to budget for and expend appropriated funds to
4 administratively implement the Executive Orders and, thereafter, compensate
5 contractors for their increased cost of compliance in violation of § 1707(a). Likewise,
6 DOE will incur additional costs associated with its vaccination incentivization program.
7

8 379. Because the Executive Orders requires vaccination of hundreds of
9 thousands, if not millions, of Americans, it certainly has “a significant effect beyond
10 internal operating procedures” in violation of § 1707(a).
11

12 380. The Executive Orders also have a significant cost or administrative impact
13 on current contractors, future contractors, and offerors in violation of § 1707(a).
14

15 381. Despite being required to be published for public comment in the Federal
16 Register, President Biden failed to publish the Task Force Guidance containing the
17 Contractor Mandate in the Federal Register as required by 41 U.S.C. § 1707(a)(1).
18

19 382. Moreover, President Biden failed to provide the required 60-day comment
20 period before the Task Force Guidance and Executive Orders became effective.
21

22 383. Further, the requirements of 41 U.S.C. § 1707(a) were never waived with
23 regard to the Executive Orders.

24 384. Accordingly, President Biden failed to comply with 41 U.S.C. § 1707(a)
25

1 when issuing the OMB Determination and the Task Force Guidance, making the
2 Executive Orders invalid as a matter of law.

3 **TENTH CAUSE OF ACTION**

4 **Nondelegation Claim (Article I, Section 1 of the United States Constitution)**

5 385. Plaintiffs incorporate each of the Complaint allegations stated above herein.
6

7 386. Pursuant to Article I, Section 1 of the United States Constitution,
8 Congress is vested with all legislative powers.
9

10 387. “Congress is not permitted to abdicate or to transfer to others the essential
11 legislative functions with which it is thus vested.” *A.L.A. Schechter Poultry Corp. v.*
12 *United States*, 295 U.S. 495, 529–30 (1935).
13

14 388. The executive branch can only exercise its own discrete powers reserved
15 by Article II of the United States Constitution and such power that Congress clearly
16 authorizes through statutory command.
17

18 389. Congress gives such authorization when it articulates an intelligible
19 principle to guide the Executive that not only sanctions but also defines and cabins the
20 delegated legislative power.
21

22 390. Under the nondelegation doctrine, Congress cannot simply offer a general
23 policy that is untethered to a delegation of legislative power. For a delegation to be
24 proper, Congress must articulate a clear principle or directive of its congressional will
25

1 within the legislative act. *See J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394,
2 409 (1928). The principle must be binding, and the delegate must be “directed to
3 conform” to it. *Id.*

4 391. The nondelegation doctrine preserves and protects important tenets of our
5 democracy, including individual liberties and states’ rights.

7 392. The President’s direct delegation of authority to the OMB Director and the
8 Task Force gives OMB unconstitutional and unconstrained rulemaking authority
9 without a statutory directive.
10

11 393. Separately, the President’s indirect delegation to the federal agencies of
12 broad authority and discretion to enforce the already unconstitutional Contractor
13 Mandate is unsupported by an explicit statutory directive within the Procurement Act
14 or any other federal law.

16 394. Thus, the President’s actions lack the requisite congressional direction in
17 two regards:

19 a. First, Congress did not articulate clear or sufficient instructions in the
20 Procurement Act directing the President to implement this public health policy scheme
21 by executive order.

23 b. Second, even if Congress did clearly authorize a national vaccination
24 schedule for federal contractors, it did not give sufficiently clear instructions to permit
25

1 the President to delegate legislative judgment to the Task Force or the OMB Director.

2 395. The Executive Order's reliance on the precatory statement of purpose in the
3 Procurement Act is not a clear directive, and neither the President nor the federal
4 agencies can rely on it to impose an intrusive and sweeping vaccine mandate.
5

6 396. Further, any delegation sanctioning broad and intrusive executive action
7 cannot be sustained without clear and meaningful legislative guidance, especially given
8 the important separation of powers and federalism concerns implicated. Under the
9 nondelegation doctrine, the Executive Orders are unconstitutional because Congress
10 did not articulate a clear principle by a legislative act that directs the Executive to take
11 sweeping action that infringes on state and individual rights.
12

13 397. Here, the Executive Orders cut deeply into the state's sphere of power
14 without articulating the underlying reasons or providing a justification beyond a
15 superficial, unsupported, and pretextual reference to efficiency and economy in federal
16 contracts.
17

18 398. Without *explicit* congressional authorization, the President's delegation of
19 power in the Executive Orders through the OMB Determination, the Task Force, and
20 the various executive agencies acting to implement the Executive Orders cannot survive
21 constitutional scrutiny.
22
23
24
25

ELEVENTH CAUSE OF ACTION

**Violation of Separation of Powers and Federalism (Article I, Section 8 and
Amendment X to the United States Constitution)**

399. Plaintiffs incorporate each of the Complaint allegations stated above herein.

400. To the extent President Biden argue that the Executive Orders are authorized, such authorization would violate the Constitution’s nondelegation principles.

401. The Executive Orders exceed congressional authority.

402. Pursuant to Article I, Section 8 of the United States Constitution, Congress has authority “to make all Laws which shall be necessary and proper for carrying into Execution” its general powers (“the Necessary and Proper Clause”). The Necessary and Proper Clause does not “license the exercise of any ‘great substantive and independent power[s]’ beyond those specifically enumerated.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 559 (2012) (citation omitted).

403. Pursuant to the Tenth Amendment of the United States Constitution, “the powers not delegated by the Constitution to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” U.S. Const. amend. X.

404. Nothing in the Constitution authorizes the federal agencies of the executive branch to impose the Executive Orders on states because requiring vaccinations for state

1 employees is an exercise of the police power left to the states under the Tenth
2 Amendment.

3 405. The Constitution does not empower Congress to require anyone who
4 transacts business with the federal government to get vaccinated. It is not a “proper”
5 exercise of Congress’s authority to mandate that every employee who touches a federal
6 contract or comes in contact with another employee who touches such a contract, has to
7 be vaccinated because the action here falls outside the scope of an Article I enumerated
8 power.
9

10
11 406. President Biden, through the Executive Order, has exercised power that
12 Congress does not possess under the Constitution and, therefore, cannot delegate to
13 other branches of the federal government.
14

15 407. If Congress intended the Procurement Act to authorize what the President
16 claims, the Act exceeds Congress’s authority, and thus President Biden must be
17 enjoined from taking any action under the Act.
18

19 TWELFTH CAUSE OF ACTION

20 **Violation of the 10th Amendment of the United States Constitution**

21 408. Plaintiffs incorporate each of the Complaint allegations stated above herein.
22

23 409. Pursuant to the Tenth Amendment of the United States Constitution, “the
24 powers not delegated by the Constitution to the United States, nor prohibited by it to
25 the States, are reserved to the States respectively, or to the people.” U.S. Const. amend.

1 X. President Biden, through the Executive Order, has exercised power far beyond
2 authority delegated to the federal government by Constitutional mandate or
3 congressional action.

4
5 410. Neither Article II of the U.S. Constitution nor any act of Congress
6 authorizes the federal agencies of the executive branch to implement the Executive
7 Order, which traditionally falls under the police power left to the states under the
8 Tenth Amendment.

9
10 411. The Tenth Amendment explicitly preserves the “residuary and inviolable
11 sovereignty,” of the states. *Printz v. United States*, 521 U.S. 898, 918–19 (1997)
12 (quoting *The Federalist* No. 39, at 245 (J. Madison)).

13
14 412. By interfering with the traditional balance of power between the states and
15 the federal government and by acting pursuant to ultra vires federal action, President
16 Biden violated this “inviolable sovereignty,” and thus, the Tenth Amendment.

17
18 413. Therefore, the Executive Orders were adopted pursuant to an
19 unconstitutional exercise of authority by President Biden and must be invalidated.

20 **THIRTEENTH CAUSE OF ACTION**

21 **Unconstitutional Exercise of the Spending Clause (Under Article I, Section 8,**
22 **Clause 1 of the United States Constitution)**

23
24 414. Plaintiffs incorporate each of the Complaint allegations stated above herein.
25

1 419. Pursuant to 5 U.S.C. § 553, agencies must publish “a notice of proposed
2 rulemaking in the Federal Register before promulgating a rule that has legal force.”
3 *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S.Ct. 2367,
4 2384 (2020); 5 U.S.C. § 553(b).

6 420. Pursuant to 48 C.F.R. 1.501, “significant revisions” to the FAR must be
7 made through notice-and-comment procedures. DOD, NASA, and the General Services
8 Administration must jointly conduct the notice-and-comment process. *Id.*

10 421. Instead of amending the FAR to implement this significant revision, the
11 FAR Council issued a purported “class deviation” without engaging in the notice-and-
12 comment process. *See* 5 U.S.C. § 553.

14 422. Proper “class deviations” must fit within one of the discrete definitions set
15 forth in 48 C.F.R 1.401.

16 423. Here, however, the FAR Deviation Clause fits none of the definitions.

18 424. Instead, the FAR Deviation Clause is in the nature of a rule within the
19 meaning of the APA because it is “an agency statement of general or particular
20 applicability and future effect designed to implement, interpret, or prescribe law or
21 policy.” 5 U.S.C. § 551(4).

23 425. The FAR Council violated the APA by failing to comply with the notice-
24 and-comment requirements for rulemaking.

1 426. Good cause, assuming it exists in relation to the President’s Executive
2 Order, does not excuse the FAR Council’s failure to comply with the notice-and-
3 comment process. See 5 U.S.C. § 553(b)(3)(B).

4 **FIFTEENTH CAUSE OF ACTION**

5 **Violation of the APA (Under 5 U.S.C. § 706)**

6 427. Plaintiffs incorporate each of the Complaint allegations stated above herein.

7 428. Under the APA, a court must “hold unlawful and set aside agency action”
8 that is “not in accordance with law” or “in excess of statutory . . . authority, or
9 limitations, or short of statutory right.” *See* 5 U.S.C. § 706(2)(A), (C).
10

11 429. The OMB Determination adopting the Task Force guidance is contrary to
12 law for at least four reasons.
13

14 430. First, the OMB Determination violates 41 U.S.C. § 1303(a) because it is
15 a government-wide procurement regulation, which only the FAR Council may issue.
16

17 431. EO 14042 apparently seeks to circumvent § 1303 by delegating the
18 President’s Procurement Act power to the OMB Director.
19

20 432. That attempt is unlawful because the President has no authority to issue
21 regulations under § 1303—only the FAR Council may issue government-wide
22 procurement regulations. *See* Centralizing Border Control Policy Under the Supervision
23 of the Attorney General, 26 Op. OLC 22, 23 (2002) (“Congress may prescribe that a
24
25

1 particular executive function may be performed only by a designated official within the
2 Executive Branch, and not by the President.”).

3 433. Second, and relatedly, the OMB rule is contrary to law because the
4 Procurement Act does not grant the President the power to issue orders with the force
5 or effect of law. Congress authorized the President to “prescribe policies and directives
6 that the President considers necessary to carry out.” 40 U.S.C. § 121(a).

7 8 434. “[P]olicies and directives” describe the President’s power to direct the
9 exercise of procurement authority throughout the government. It does not authorize the
10 President to issue regulations himself.

11 12 435. Congress knows how to confer that power, as it authorized the GSA
13 Administrator, in the same section of the statute, to “prescribe regulations.” *Id.*
14 §121(c); *see also Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) (“[W]hen
15 the legislature uses certain language in one part of the statute and different language in
16 another, the court assumes different meanings were intended.”).

17 18 436. Congress has given the President the power to “prescribe regulations” in
19 other contexts, typically in the realm of foreign affairs and national defense. *See, e.g.,*
20 18 U.S.C. § 3496 (“The President is authorized to prescribe regulations governing the
21 manner of executing and returning commissions by consular officers.”); 32 U.S.C. §
22 110 (“The President shall prescribe regulations, and issue orders, necessary to organize,
23
24
25

1 discipline, and govern the National Guard.”).

2 437. Third, even if the Procurement Act authorized the President to issue orders
3 with the force or effect of law, it would not authorize approval of the Task Force
4 guidance. The President appears to assume that the Procurement Act’s prefatory
5 statement of purpose authorizes him to issue any order that he believes promotes “an
6 economical and efficient” procurement system. 40 U.S.C. § 101. In doing so, the
7 President mistakenly construes the prefatory purpose statement for a grant of authority.
8 D.C. v. Heller, 554 U.S. 570, 578 (2008) (“[A]part from [a] clarifying function, a
9 prefatory clause does not limit or expand the scope of the operative clause.”).

12 438. Even if the Procurement Act did authorize the President to issue binding
13 procurement orders solely because they may promote economy and efficiency, the
14 OMB Determination does not adequately do so. Providing the federal government with
15 an “economical and efficient system for” procurement is not a broad enough delegation
16 to impose a national-scale vaccine mandate that Congress has not separately authorized.

19 439. Further, the Executive Orders are divorced from the practical needs of
20 procurement. In order to maintain a steady and predictable flow of goods and services—
21 and the advancement of science and technology through research and development—
22 the federal procurement system requires a stable and reliable workforce to timely
23 perform work required under tens of thousands of federal contracts and funding
24 agreements. The Executive Orders disrupt the stability and reliability of the contractor
25

1 workforce by forcing contractors to potentially fire unvaccinated and non-exempt
2 covered employees, many of whom are highly skilled and essential to the work.

3 440. Because the OMB Determination violates § 1303(a), seeks to exercise a
4 delegated power the President does not possess, and relies on a misreading of the
5 Procurement Act, it is contrary to law.
6

7 **SIXTEENTH CAUSE OF ACTION**

8 **Violation of the APA (5 U.S.C. § 706)**

9
10 441. Plaintiffs incorporate each of the Complaint allegations stated above herein.

11 442. Pursuant to the Administrative Procedure Act, agency action that is
12 “arbitrary [or] capricious” is unlawful and must be set aside by a court of competent
13 jurisdiction. 5 U.S.C. § 706(2)(A).
14

15 443. Pursuant to 48 C.F.R. 1.402 “[u]nless precluded by law, executive order, or
16 regulation, deviations from the FAR may be granted [] when necessary to meet the
17 specific needs and requirements of each agency.”
18

19 444. The Executive Orders are being implemented with no express findings, no
20 explanation, and no consideration of the distinct and diverse universe of federal
21 agencies.
22

23 445. The Executive Orders impose universal and uniform requirements without
24 regard to the particularized needs and circumstances of each federal agency and are
25 therefore arbitrary and capricious in violation of the APA.

SEVENTEENTH CAUSE OF ACTION

Commerce Clause (Article 1, Section 8, Clause 3 of the US Constitution)

446. Plaintiffs incorporate each of the Complaint allegations stated above herein.

447. The Executive Orders likely exceed the federal government’s authority under the Commerce Clause as each Order regulates noneconomic inactivity that falls squarely within the States’ police power as a person’s choice to remain unvaccinated and forgo regular testing is noneconomic inactivity. *NFIB v. Sebelius*, 567 U.S. 519, 522 (2012) (Roberts, C.J., concurring); *see also id.* at 652–53 (Scalia, J., dissenting). Mandating that a person receive a vaccine or undergo testing falls squarely within the States’ police power. *Zucht v. King*, 260 U.S. 174, 176 (1922) (noting that precedent had long “settled that it is within the police power of a state to provide for compulsory vaccination”); *Jacobson v. Massachusetts*, 197 U.S. 11, 25–26 (1905) (similar).

448. The Executive Orders, commandeer U.S. employers to compel millions of employees to receive a COVID-19 vaccine or face termination. While the Commerce Clause power is expansive, it does not grant Congress the power to regulate noneconomic inactivity traditionally within the States’ police power. *See Sebelius*, 567 U.S. at 554 (Roberts, C.J., concurring) (“People, for reasons of their own, often fail to do things that would be good for them or good for society. Those failures—joined with the similar failures of others—can readily have a substantial effect on interstate commerce. Under the Government’s logic, that authorizes Congress to use its

1 commerce power to compel citizens to act as the Government would have them act.
2 That is not the country the Framers of our Constitution envisioned.”); *see also Bond v.*
3 *United States*, 572 U.S. 844, 854 (2014) (“The States have broad authority to enact
4 legislation for the public good—what we have often called a ‘police power.’ . . . The
5 Federal Government, by contrast, has no such authority. . .” (Citations omitted)).
6 Indeed, the courts “*always* have rejected readings of the Commerce Clause . . . that
7 would permit Congress to exercise a police power.” *United States v. Lopez*, 514 U.S.
8 549, 584 (1995) (Thomas, J., concurring). In sum, the Executive Orders far exceed
9 current constitutional authority.
10
11

12 **RELIEF REQUESTED**

13
14 A. A Declaration that Executive Order 14042 and Executive Order 14043 are
15 unconstitutional for each Order’s infringement upon the Free Exercise of Religion.

16 B. A Temporary Restraining Order, Preliminary Injunction, and Permanent
17 Injunction restraining Defendants from taking adverse employment action against the
18 Employees.

19
20 C. Attorney fees as authorized by statute.

21 D. Absent declaratory or injunctive relief, judgment in favor of each Plaintiff
22 against his or her specific employer for wrongful termination and breach of contract,
23 liability and damages to be determined by a jury of twelve.
24

25 E. Any other remedy deemed reasonable by this Court.

DATED this 16th day of November 2021.

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