

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JAMIE ZIMMERMAN, an individual; and CHRISTINA AST, an individual; and CYNTHIA HAEHNEL, an individual; and MARGARET SMARR, an individual; and AMBER SCHAEFFER, an individual; and MICAH BURR, an individual; and SARAH BEAM, an individual; and JUSTIN SYRING, an individual; and REBECCA LAUGHLIN, an individual; and LILIYA DUDIK, an individual; and GEORGE ALLEN, an individual; and VICTORIA FISHER, an individual; and MELLISSA KOLB, an individual; and ALIVIA VEGA, an individual; and KAREN F. WICKEN, an individual; and AMY MAKARENKO, an individual; and AMY ELIZABETH REED, an individual; and KAREN BRANCH, an individual; and ANNA MEADOWS, an individual; and MICHAEL ROGEN, an individual; MARIA O'NEILL, an individual; E ISHA MORENO, an individual; JOHN DOES 1-400; and JANE DOES 1-400

Plaintiffs,

v.

PEACEHEALTH, a non-profit corporation, LIZ DUNNE, President and Chief Executive Officer at PeaceHealth, RICHARD DeCARLO, Executive Vice President and Chief Operating Officer at PeaceHealth, STEVE GLENN, Executive Vice President and Chief Administrative Officer, SARAH NESS,

CASE NO.:

COMPLAINT – CLASS ACTION  
FOR DAMAGES, AND  
INJUNCTIVE AND  
DECLARATORY RELIEF

JURY DEMAND

PLAINTIFFS' CLASS ACTION  
COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF  
AND FOR DAMAGES

Silent Majority Foundation  
5238 Outlet Dr.  
Pasco, WA 99301

1 Executive Vice President, People and Culture of  
2 PeaceHealth, SCOTT FOSTER, Chief Executive,  
3 PeaceHealth Medical Group, MICHELLE  
4 JAMES, RN, Senior Vice President for Patient  
5 Care Services and Chief Nursing Officer, DOUG  
6 KOEKKOEK, MD, Chief Physician and Clinical  
7 Executive, CHARLES PROSPER, MSPT, MBA,  
8 Chief Executive, Northwest Network,

9 Defendants.

## 10 **I. INTRODUCTION**

11 1. Plaintiffs have suffered religious discrimination at the Defendants hands through  
12 Defendants’ implementation and enforcement of its COVID-19 vaccine mandate policy [NAME]  
13 (“Policy”), which mandated a COVID-19 vaccine as a condition of employment. While the Policy  
14 on its face allowed individuals to claim religious exemptions and receive accommodations,  
15 PeaceHealth denied all of these requests. Moreover, the Policy required Plaintiffs to receive a drug  
16 that is in clinical investigation stages in the COVID-19 vaccines.

17 2. Through the Policy, Defendants offered a sliver of hope that Plaintiffs and would  
18 be accommodated, but in the end, every Plaintiff’s request was flatly rejected resulting in the  
19 placement of indefinite leave without pay, resulting in the Plaintiffs arising every day with the  
20 hope that they can return to work and retiring at night having had no opportunity to return to work.

21 3. Through the Policy, Defendants mandated a vaccine that was, and remains  
22 authorized through an Emergency Use Authorization (“EUA”) granted by the by the United States  
23 Federal Drug Administration (“FDA”) under Section 564(b)(1)(C) ((21 U.S.C. 360bbb-3)) of the  
24 Food Drugs and Cosmetics Act (“FD&CA”).<sup>1</sup>

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27 1 The Pfizer BioNTech vaccine was granted EUA authorization December 12, 2020, and the authorization has been  
28 reissued 18 times since. <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#vaccines>. Last accessed: December 10, 2022.

**II. PARTIES**

4. Defendant **PEACEHEALTH** is a not-for-profit healthcare system headquartered in Clark County, WA recognized as tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code.

5. PeaceHealth touts a mission of “carry[ing] on the healing mission of Jesus Christ by promoting personal and community health, relieving pain and suffering, and treating each person in a loving and caring way.”<sup>2</sup> Notably, “At PeaceHealth, the fulfillment of our Mission is our shared purpose.”<sup>3</sup>

6. Defendant **LIZ DUNNE** is the President and Chief Executive Officer of PeaceHealth.

7. Defendant **RICHARD DECARLO** is the Executive Vice President and Chief Operating Officer of PeaceHealth.

8. Defendant **STEVE GLENN** is the Executive Vice President and Chief Administrative Officer of PeaceHealth.

9. Defendant **SARAH NESS** is the Executive Vice President, People and Culture of PeaceHealth.

10. Defendant **SCOTT FOSTER, MD** is the Executive, PeaceHealth Medical Group.

11. Defendant **MICHELLE JAMES, RN** is the Senior Vice President for Patient Care Services and Chief Nursing Officer of PeaceHealth.

12. Defendant **DOUG KOEKKOEK, MD** is the Chief Physician and Clinical Executive of PeaceHealth.

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<sup>2</sup> *PeaceHealth at a Glance*. Available at: [https://www.peacehealth.org/sites/default/files/2022-07/System\\_PeaceHealth-at-a-Glance-2022-FINAL.pdf](https://www.peacehealth.org/sites/default/files/2022-07/System_PeaceHealth-at-a-Glance-2022-FINAL.pdf). Last accessed: December 7, 2022.

<sup>3</sup> *Id.*

1 13. Defendant CHARLES PROSPER, MSPT, MBA is the Chief Executive Northwest  
2 Network of PeaceHealth.

3 14. Plaintiff, **JAMIE ZIMMERMAN**, is a Registered Nurse in the PeaceHealth  
4 Southwest Medical Center in the PeaceHealth System. She submitted a signed, written request  
5 for an exemption and accommodation from PeaceHealth COVID-19 Vaccine Requirement  
6 Policy, but PeaceHealth refused to provide a reasonable accommodation. She was put on  
7 administrative leave on September 1, 2021, which expired December 31, 2021. This  
8 administrative leave was reviewed and reinstated on December 17, 2021, March 25, 2022, June  
9 23, 2022, August 30, 2022, and November 30, 2022. The next review will occur on February 28,  
10 2023. Ms. Zimmerman worked as a Registered Nurse for PeaceHealth For nearly 20 years  
11 beginning in July of 2002 and regularly received positive reviews. For approximately 12 years,  
12 Ms. Zimmerman declined the flu vaccine for religious reasons. The hospital accommodated this  
13 denial by withholding the name tag sticker that indicated whether the employee had received a  
14 flu shot and by requiring that she wear a mask, along with the ordinary measures used in  
15 hospitals to prevent the transmission of communicable diseases such as hand washing between  
16 patients. After the COVID-19 vaccine became mandatory, her religious objection was accepted  
17 but not accommodated. The loss of Ms. Zimmerman’s employment at PeaceHealth has severely  
18 impacted her and her family’s financial, physical, and emotional well-being. She received a right  
19 to sue letter from the Employment Opportunities Commission (“EEOC”) on September 13, 2022.

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23 15. Plaintiff, **CHRISTINA AST**, worked as a charge nurse at St. John Medical  
24 Center in the PeaceHealth System. She submitted a written, signed request for an exemption and  
25 accommodation from PeaceHealth COVID-19 Vaccine Requirement Policy, but PeaceHealth  
26 refused to provide a reasonable accommodation. She was put on administrative leave on  
27 September 1, 2021, which expired December 31, 2021. This administrative leave was reviewed  
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1 and reinstated on December 17, 2021, March 25, 2022, June 23, 2022, August 30, 2022, and  
2 November 30, 2022. The next review will occur on February 28, 2023. Ms. Ast was hired on  
3 March 9, 2008, and has never received a negative review or been disciplined while at  
4 PeaceHealth. Years prior to the pandemic Ms. Ast declined the flu vaccine for medical reasons.  
5 The hospital accommodated this denial by withholding the name tag sticker that indicated she  
6 had gotten a flu vaccine, and by requiring that she wear a mask, along with the ordinary  
7 measures used in hospitals to prevent transmission of communicable diseases such as hand  
8 washing between patients. No such medical exemptions were allowed for the experimental  
9 COVID-19 vaccines. On a daily basis in the between-shift huddles, it was made clear to all  
10 employees that no medical exemptions would be granted and it was stated that without exception  
11 everyone needed to be vaccinated. After being denied a medical exemption for the COVID-19  
12 vaccine, Ms. Ast prayed and fasted about getting the vaccine. She felt no peace about it and so  
13 submitted a religious exemption which was accepted but not accommodated resulting in unpaid  
14 administrative leave. Ms. Ast's family relies on her employment for health insurance, mortgage  
15 payment, food, caring for family and retirement. The loss of her employment has a severe impact  
16 on Ms. Ast and her family's financial, physical, mental and emotional well-being. Her recent  
17 mortgage was based in part upon her income. This loss has meant that she and her husband have  
18 not been able to afford an eye exam to get a new prescription for over a year. This impacts her  
19 husband's ability to do his job. Additionally, the loss of retirement benefits and the need to use  
20 savings has had a dramatic impact to her retirement plans. Additionally, to make ends meet, her  
21 ailing mother has had to move in with them. This stress has impacted her marriage and other  
22 relationships negatively. She received a right to sue letter from the EEOC on September 19,  
23 2022.  
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1 16. Plaintiff CYNTHIA HAEHNEL is an LPN at the PeaceHealth Cardiology Clinic  
2 in Bellingham, WA. Cynthia Haehnel submitted a signed written request for an exemption and  
3 accommodation from PeaceHealth's Mandatory COVID-19 Vaccination Policy, but PeaceHealth  
4 refused to provide a reasonable accommodation. She was put on administrative leave on  
5 September 1, 2021, which expired December 31, 2021. This administrative leave was reviewed  
6 and reinstated on December 17, 2021, March 25, 2022, June 23, 2022, August 30, 2022, and  
7 November 30, 2022. The next review will be in February 28, 2023. Years prior Ms. Haehnel  
8 declined the flu and other vaccines for medical reasons. The hospital accommodated this denial  
9 by withholding the name tag sticker that indicated she had gotten a flu vaccine, and by requiring  
10 that she wear a mask, along with the ordinary measures used in hospitals to prevent transmission  
11 of communicable diseases such as hand washing between patients. After her medical exemption  
12 was denied as it applied to the COVID-19 vaccine, she learned that fetal tissue was used in the  
13 development of each of the vaccines and so submitted a religious objection. This objection was  
14 accepted, but not accommodated, resulting in unpaid administrative leave. Cynthia Haehnel's  
15 family relies on her employment for health insurance as well as for helping to pay for education  
16 expenses for her daughter. The loss of Cynthia Haehnel's employment has severely impacted  
17 Plaintiff Haehnel and her family's financial and physical well-being. This loss of active  
18 employment has been difficult mentally. Cynthia had hoped to end her career in the PeaceHealth  
19 Cardiology clinic. Cynthia was in a serious motorcycle accident versus a semi-truck in her youth.  
20 When Cynthia attempted to get into nursing school they did not want to allow her admittance, as  
21 they said Cynthia was "too crippled" to do the job. She persisted and was accepted into nursing  
22 school. Cynthia worked with one M.D. who would call her gimpy. She managed to work 28  
23 years in cardiology clinics. Cynthia's last job at PeaceHealth was ideal for her and her  
24 disabilities. She had her own office in which she kept a box under her desk on which to elevate  
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1 her impaired leg. Without elevating her leg between patients, it would have been very difficult to  
2 walk at the end of the day.

3 17. Plaintiff MARGARET SMARR is a registered nurse at PeaceHealth St. John's  
4 medical center in the PeaceHealth system. Ms. Smarr submitted and signed, in written form, for  
5 an exemption and accommodations from PeaceHealth's mandatory COVID-19 Vaccination  
6 Policy which was accepted on August 27, 2021. PeaceHealth then threatened to revoke my  
7 religious exemption unless I filled out a different form by October 18, 2021. PeaceHealth  
8 refused to provide reasonable accommodation. Ms. Smarr and her family had recently moved  
9 and relied on her contribution in order to pay for bills, mortgage, school loan debt, and health  
10 insurance for the family. She was about 7 months pregnant at time of being placed on unpaid  
11 leave. The sudden single month notice that she would lose both her income and health insurance  
12 necessary to support her growing family caused stress for the whole family. There were large  
13 amounts of anxiety around getting coverage for the birth, OB/gyn visits, postpartum care, and  
14 newborn/well child appointments coming quickly. What was supposed to be an exciting life  
15 event turned into a fearful and stressful one. She also faced harassment from coworkers on her  
16 unit before her forced unpaid leave. It was mentally exhausting having to defend herself, being  
17 called selfish, having the understaffing being blamed on her when she went into nursing to help  
18 people and wanted to continue working. Meanwhile she tried to communicate with HR,  
19 management, and the nurses union about accommodations so that she could continue to provide  
20 patient care but was flat out refused any accommodations to continue working. She found herself  
21 locked from her work email and when she tried to contact her manager to gain access to her  
22 communications with HR, she learned the manager had quit and someone new had taken over.  
23 Ms. Smarr felt abandoned by her employer, and lost her trust in the PeaceHealth system. She has  
24 spent years of her life dedicated to becoming a nurse and is scarred from the actions PeaceHealth  
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1 took without regard to her or to the employees unvaccinated, unaccommodated employees (like  
2 her), and to the remaining PeaceHealth employees who are left in an understaffed environment.

3 18. Plaintiff AMBER SCHAEFFER is a Maintenance Painter in the PeaceHealth  
4 Southwest Medical Center in the PeaceHealth System. Amber Schaeffer submitted a signed,  
5 written request for an exemption and accommodation from PeaceHealth's Mandatory COVID-19  
6 Vaccination Policy, but PeaceHealth refused to provide a reasonable accommodation. Amber  
7 Schaeffer's family relies on her employment for health insurance as well as for paying family  
8 bills & financial assistance for her 82-year-old mother. The loss of Amber Schaeffer's  
9 employment has severely impacted her and her family's financial, physical & medical well-  
10 being, it has destroyed her life, cost her the apprenticeship she was enrolled in & left for  
11 PeaceHealth. The refusal to accommodate her valid medical exemption has wiped out all her  
12 savings, put her in debt, made her totally dependent on another person for survival, caused so  
13 much stress that it caused a potentially deadly heart condition that further crippled her finances  
14 & ability to function in any way, giving her panic attacks, and nightmares.

15 19. Plaintiff MICAH BURR is a Registered Nurse at PeaceHealth St. John Medical  
16 Center in the PeaceHealth System and has worked there for over 16 years. Micah submitted a  
17 signed, written request for an exemption and accommodation from PeaceHealth's Mandatory  
18 COVID-19 Vaccination Policy, but PeaceHealth refused to provide a reasonable  
19 accommodation. Micah is the sole income and provider for his family. His family relies on his  
20 employment for health insurance as well as all day-to-day living expenses and paying all the bills  
21 for the entire family. The loss of Micah's employment has placed a severe financial burden on  
22 him and his family. This employment loss has also had a direct impact on his mental and  
23 emotional well-being.  
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1           20.           Plaintiff SARAH BEAM is a Surgical/ OB Technologist in the PeaceHealth St.  
2 Joseph Medical Center in the PeaceHealth System. Sarah Beam submitted a signed, written  
3 request for an exemption and accommodation from Peacehealth's Mandatory COVID-19  
4 Vaccination Policy, but PeaceHealth refused to provide a reasonable accommodation. Sarah  
5 Beam's family relies on her employment for medical benefits as well as for expenses for the four  
6 children. The loss of Sarah Beam's income has severely impacted her family's financial and  
7 mental well-being.  
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9           21.           Plaintiff JUSTIN SYRING is a Registered Nurse in the PeaceHealth St. John  
10 Medical Center in the PeaceHealth System. Justin Syring submitted a signed, written request for  
11 an exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination  
12 Policy, but PeaceHealth refused to provide a reasonable accommodation. Justin Syring's family  
13 relies on his employment for health insurance and to support his family financially. The loss of  
14 Justin Syring's employment has severely impacted his and his family's financial and physical  
15 well-being. He has endured being strung along by the hospital, especially after learning N95  
16 masks were being used (he has been fit tested and requested the option to wear N95 masks at  
17 work as his accommodation) instead of the then-used standard surgical masks but has not been  
18 contacted by HR except to be told he could not be accommodated and that his exemption  
19 approval has been extended. Financial uncertainty and inability to pay for college for a career  
20 change has caused added mental stress. Due to the prolonged leave without pay, he will not have  
21 the minimum yearly nursing hours required to maintain his license and will be ineligible to work  
22 as a Registered Nurse after 03/25/23 which is causing greater financial and emotional stress.  
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25           22.           Plaintiff REBECCA LAUGHLIN is a Visiting RN at PeaceHealth Sacred Heart  
26 Home Health in the PeaceHealth System. Rebecca Laughlin submitted a signed, written request  
27 for an exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination  
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1 Policy, but PeaceHealth refused to provide a reasonable accommodation. Rebecca Laughlin  
2 relies on her employment for health insurance as well as for paying living expenses, rent, and  
3 bills for herself. The loss of Rebecca Laughlin’s employment has severely impacted her financial  
4 and emotional well-being as the sole income provider for herself, which currently consists of 15  
5 months of lost wages and benefits.

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7 23. Plaintiff LILIYA DUDIK is a Registered Nurse at the PeaceHealth Southwest  
8 Medical Center in the PeaceHealth System. Ms. Dudik submitted a signed, written request for an  
9 exemption and accommodation from PeaceHealth’s Mandatory COVID-19 Vaccination Policy,  
10 but PeaceHealth refused to provide a reasonable accommodation. Ms. Dudik’s family relies on  
11 her employment for health insurance as well as for paying education expenses for her son. The  
12 loss of her employment has severely impact her and her family’s, financial and physical well-  
13 being.

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15 24. Plaintiff GEORGE ALLEN is a Stationary Engineer in the PeaceHealth  
16 Southwest Medical Center in the PeaceHealth System. Mr. Allen submitted a signed, written  
17 request for an exemption and accommodation from PeaceHealth’s Mandatory COVID-19  
18 Vaccination Policy, but PeaceHealth refused to provide a reasonable accommodation. Mr.  
19 Allen’s family relies on his employment for health insurance, and maintenance.

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21 25. Plaintiff VICTORIA FISHER is a Charge Nurse in the PeaceHealth St. John  
22 Medical Center in the PeaceHealth System. Ms. Fisher submitted a signed, written request for an  
23 exemption and accommodation from PeaceHealth’s Mandatory COVID-19 Vaccination Policy,  
24 but PeaceHealth refused to provide a reasonable accommodation. Ms. Fisher’s family relies on  
25 her employment for health insurance and general financial maintenance. The loss of her  
26 employment has severely impacted her and her family’s, financial and physical well-being.  
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1 26. Plaintiff MELLISSA KOLB is a Cath Lab RN in the PeaceHealth Southwest  
2 Medical Center in the PeaceHealth System. Ms. Kolb submitted a signed, written request for an  
3 exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination Policy,  
4 but PeaceHealth refused to provide a reasonable accommodation. Ms. Kolb's family relies on her  
5 employment for health insurance as well as general family maintenance. The loss of her  
6 employment has severely impact her and her family's, financial and physical well-being.  
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8 27. Plaintiff ALIVIA VEGA is a House supervisor in the PeaceHealth St. Joseph.  
9 Medical Center in the PeaceHealth System. Alivia Vega submitted a signed, written request for  
10 an exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination  
11 Policy, but PeaceHealth refused to provide a reasonable accommodation for her religious  
12 exemption. Alivia's family relies on her employment for health insurance as well as for  
13 supporting her family. The loss of Alivia Vegas employment has severely impacted her and her  
14 family's, financial and physical well-being.  
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16 28. Plaintiff KAREN F. WICKEN is a Registered Nurse in the PeaceHealth St. Johns  
17 Medical Center in the PeaceHealth System. Karen F. Wicken submitted a signed, written request  
18 for an exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination  
19 Policy, but PeaceHealth refused to provide a reasonable accommodation. Being the sole  
20 provider, Karen F. Wicken's family relies on her employment to live, health insurance as well as  
21 for paying education expenses for her daughter. The loss of Karen F. Wicken's employment has  
22 severely impacted her and her family's financial, physical and emotional well-being.  
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24 29. Plaintiff AMY MAKARENKO is a surgical technologist at PeaceHealth  
25 Southwest Medical Center. Ms. Makarenko submitted a written request for religious exemption  
26 and accommodation and got approved but PeaceHealth refused to provide a reasonable  
27 accommodation. Ms. Marenko's family relied on her income for insurance and to help pay the  
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1 mortgage and car payment. The loss of Ms. Marenko's employment has severely impacted her  
2 and her family's financial, physical and emotional well-being.

3 30. Plaintiff AMY ELIZABETH REED is an RN in the PeaceHealth Southwest  
4 Medical Center in the PeaceHealth System. Amy Elizabeth Reed submitted a signed, written  
5 request for an exemption and accommodation from PeaceHealth's Mandatory COVID-19  
6 Vaccination Policy, but PeaceHealth refused to provide a reasonable accommodation.  
7 Administrative leave without pay has impacted her financially and emotionally. Ms. Reed is the  
8 primary provider for her family, and has had to support her family by savings she was planning  
9 on using for retirement, as well as having to take distributions from her retirement accounts at  
10 Fidelity to survive. She is close to retirement age but being in good health, had planned to work  
11 a few more years to accomplish a comfortable retirement. Now she is unsure of the future. Social  
12 Security will barely cover her financial needs and most of her savings are depleted.

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15 31. Plaintiff KAREN BRANCH is a Laboratory Assistant at the Peace Health  
16 Southwest Washington Medical Center in the Peace Health System. Karen Branch submitted a  
17 signed, written request for an exemption and accommodation from Peace Health's Mandatory  
18 COVID-19 Vaccination Policy, but Peace Health refused to provide a reasonable  
19 accommodation. The loss of Karen Branch's employment has severely impact her and her  
20 family's, financial, physical, mental and emotional well-being.

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22 32. Plaintiff ANNA MEADOWS is a Certified Nursing Assistant in the Peace Health  
23 System. Anna Meadows submitted a signed, written request for an exemption and  
24 accommodation from Peace Health's Mandatory COVID-19 Vaccination Policy, but Peace  
25 Health refused to provide a reasonable accommodation. Ms. Meadow's family relies on her  
26 employment for health insurance, mortgage payment, food, caring for family and retirement. The  
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1 loss of Anna Meadows employment has severely impact her and her family's, financial and  
2 physical well-being.

3 33. Plaintiff MICHAEL ROGEN is an emergency department Registered Nurse at  
4 PeaceHealth St. Johns Medical Center in the PeaceHealth System. Michael submitted a signed,  
5 written request for an exemption and accommodation from PeaceHealth's Mandatory COVID-19  
6 Vaccination Policy but PeaceHealth refused to provide a reasonable accommodation. Michael's  
7 family relies on his employment for health insurance as well as for paying living expenses for his  
8 children. The loss of Michael's employment has severely impacted him and his family's  
9 financial and physical well-being. Michael also suffered significant mental and emotional  
10 distress due to his inability to provide for his family and household as its sole financial provider  
11 for the foreseeable future. In addition to the emotional and mental burden this put on Michael  
12 because of the reasons mentioned above, he also suffered significantly due to his dedication to  
13 his community and the people whom he had worked with for many years. Michael received the  
14 Covid-19 vaccine, under duress, so that he could return to work in an overwhelmed and  
15 understaffed department.  
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18 34. Plaintiff MARIA O'NEILL is a CMA in the PeaceHealth Southwest Medical  
19 Center, in the PeaceHealth System. Maria O'Neill submitted a signed, written request for an  
20 exemption and accommodation from PeaceHealth's Mandatory COVID-19 Vaccination Policy,  
21 but PeaceHealth refused to provide a reasonable accommodation. Maria's family relies on her  
22 employment for health insurance and contributing to monthly expenses. The loss of Maria's  
23 employment has severely impacted her and her family's, financial and physical well-being.  
24 Emotionally her state of mind and has resulted in decreased confidence. She is unable to obtain  
25 employment in the medical field, even with professional education, training, and certification,  
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1 due to the vaccine mandate. Ms. O’Neill’s age presents a compounding issue for new  
2 employment.

3 35. Plaintiff EISHA MORENO was a Certified Medical Assistant in the PeaceHealth  
4 Southwest Medical Center in the PeaceHealth System and worked there for nearly eight years  
5 prior to her placement on administrative leave without pay. Moreno submitted a signed, written  
6 request for a medical exemption and accommodation from PeaceHealth’s Mandatory COVID-19  
7 Vaccination Policy, but PeaceHealth refused to provide a reasonable accommodation. Moreno  
8 had previously been granted medical exemptions from PeaceHealth’s flu vaccine requirement,  
9 whereby she would wear a mask; nonetheless, PeaceHealth denied the Moreno’s medical  
10 exemption request. Moreno subsequently sought, and received, a religious exemption, which was  
11 granted on September 1, 2021, but PeaceHealth refused accommodations under the exemption.  
12 Prior to her placement on leave, Moreno experienced a hostile work environment whereby she  
13 was treated poorly for her unvaccinated status. Moreno’s family relies on her employment for  
14 health insurance as well as for paying education expenses for her son. The loss of Eisha  
15 Moreno’s position has severely impact her and her family’s, financial and physical, emotional  
16 and mental health well-being.

19 36. “JOHN DOES 1-400” are all individuals with similar or substantially similar  
20 situations and claims to those made by Plaintiff whose identities shall be provided as appropriate  
21 and the Caption and Complaint amended accordingly.

23 37. “JANE DOES 1-400” are all individuals with similar or substantially similar  
24 situations and claims to those made by Plaintiff whose identities shall be provided as appropriate  
25 and the Caption and Complaint amended accordingly.

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1 45. Because of the emergence of the novel corona virus, SARS CoV2 (“COVID-19”),  
2 three separate vaccines have been developed to purportedly prevent COVID-19.

3 46. Congress has given the Food and Drug Administration (“FDA”) the authority to  
4 issue Emergency Use Authorization (“EUA”) of unapproved drugs during a pandemic.

5 47. Unapproved Drugs are drugs that are still in the clinical investigation stage as  
6 defined under 21 C.F.R. §312.3 and have not become approved under 21 C.F.R. §355. U.S.C.  
7 §360bbb-3(a)(2)(A).  
8

9 48. Though EUA drugs may be offered to people in a pandemic, Congress expressly  
10 retained the right of individuals the option to accept or refuse administration of the product. 21  
11 U.S.C. §360bbb-3(e)(1)(A)(i)(III).

12 49. Congress also gave the Secretary of the Department of Health and Human  
13 Services (“HHS”) alone the duty to determine “the consequences, if any, of refusing  
14 administration of the product.” 21 U.S.C. 360bbb-3(e)(1)(A)(i)(III).  
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16 50. The HHS Secretary has not made forfeiting employment a consequence of  
17 refusing the EUA authorized vaccines. On the contrary, all the vaccine information fact sheets  
18 for all EUA vaccines products for COVID-19 in the FAQ section explicitly says “Under the  
19 EUA, it is your choice to receive or not receive the vaccine. Should you decide not to receive it,  
20 it will not change your standard medical care.”<sup>4</sup>  
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22 51. The HHS Secretary lacks the authority to condition employment on receipt of an  
23 EUA vaccine pursuant to 45 C.F.R. 46(A), the Common Rule for the Protection of Human  
24 Subjects, and the principles.

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4 Food and Drug Administration, Fact Sheet for Recipients and Caregivers Emergency Use Authorization (EUA) of the Pfizer-Biontech COVID-19 Vaccine to Prevent Coronavirus Disease 19 (COVID-19) In Individuals.

1 52. The Belmont Report is clear: “if there is any element of research in an activity,  
2 that activity should undergo review for the protection of human subjects.”<sup>5</sup> The Belmont Report  
3 uses the term “beneficence,” which it defines, in part, as “Persons are treated in an ethical  
4 manner not only by respecting their decisions and protecting them from harm, but also by  
5 making efforts to secure their well-being.”

6  
7 53. The Belmont Report further addresses the importance of informed consent,  
8 providing that “It may be that a standard of “the reasonable volunteer” should be proposed” and  
9 further noting that “there is widespread agreement that the consent process can be analyzed as  
10 containing three elements: information, comprehension and voluntariness.”<sup>6</sup>

11 54. The Belmont Report further provides, “Even when some direct benefit to them is  
12 anticipated, the subjects should understand clearly the range of risk and the voluntary nature of  
13 participation.”

14  
15 55. Under the EUA, 21 U.S.C. 360bbb-3(e)(1)(A)(iii) and (B)(iii), the Secretary is  
16 required to monitor adverse events and collect information regarding safe and effectiveness  
17 making clear that there is an element of research attached to the issuance of an EUA.

18 56. Both the Common Rule and the Belmont Report require legally effective  
19 informed consent before administering an investigational drug.

20  
21 57. Legally effective informed consent must be voluntary and cannot include coercion  
22 or undue influence.<sup>7</sup> The report explains that “[u]njustifiable pressures usually occur when  
23 persons in positions of authority or commanding influence – especially where possible sanctions  
24 are involved – urge a course of action for a subject.

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5 The Belmont Report, at 4, April 17, 1979, available at <https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/read-the-belmont-report/index.html>.

28 <sup>6</sup> *Id.* at 7.

<sup>7</sup> *Id.* at 7.

1 58. PeaceHealth knew that legally effective informed consent is freely given. The first  
2 line of its Acknowledgement form given to patients receiving the vaccine state: “I made the  
3 choice to get the COVID-19 vaccine on my own and freely,” yet PeaceHealth asserted  
4 “unjustifiable pressure” by *requiring* the vaccine for continued employment. Unquestionably, an  
5 employer hanging continued employment over an employee’s head constitutes a “sanction,” and  
6 a significant one at that.

7  
8 59. PeaceHealth knew or should have known that the vaccine would not stop  
9 infection and transmission **before** it rolled out the vaccine mandate as the CDC statements on the  
10 vaccine’s ineffectiveness were publicly available.<sup>8</sup>

11 60. The Food and Drug Administration (“FDA”) issued an Emergency Use  
12 Authorization (“EUA”) for the Pfizer-BioNTech COVID-19 Vaccine (“Pfizer Vaccine”) for  
13 individuals 16 years of age and older, on December 11, 2020.<sup>9</sup>

14  
15 61. On August 23, 2021, less than a year later, the FDA gave the Pfizer vaccine under  
16 the name Comirnaty full approval, though none of the approved product came to market in  
17 2021.<sup>10</sup> Moderna was granted an EUA for its COVID-19 Vaccine (“Moderna”) on December 17,  
18 2020,<sup>11</sup> and full approval under the name Spikevax on January 31, 2022.<sup>12</sup>

19 62. On February 27, 2021, the single shot Johnson and Johnson COVID-19 Vaccine  
20 (“Janssen Vaccine”) was granted an EUA.<sup>13</sup>

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22 

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8 See: ¶¶ 53 and 71.

23 9 FDA Takes key action in fight against COVID-19 By Issuing Emergency Use Authorization for First COVID-19  
24 Vaccine, FDA, <https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19> (last visited October 20, 2022).

25 10 Pfizer-BioNTech COVID-19 Vaccines, FDA, <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/pfizer-biontech-covid-19-vaccines> (last visited October 20, 2022).

26 11 Moderna COVID-19 Vaccine Frequently Asked Questions, FDA, <https://cacmap.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/moderna-covid-19-vaccine-frequently-asked-questions>. (last visited October 20, 2022).

27 12 Moderna COVID-19 Vaccines, FDA, <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/moderna-covid-19-vaccines> (last visited October 20, 2022).

28 13 FDA Issues Emergency Use Authorization for Third COVID-19 Vaccine, <https://www.fda.gov/news-events/press-announcements/fda-issues-emergency-use-authorization-third-covid-19-vaccine> (last visited October 20, 2022).

1 63. When these EUA’s and approvals were issued, there was no study done to verify  
2 that the vaccines stopped infection or transmission as the following statements by the FDA in  
3 meetings to grant EUA and/or approval status demonstrate.

4 A. “The lack of data on how the vaccine impacts asymptomatic infection and viral  
5 shedding was also pointed out and that this should be addressed prior to study  
6 unblinding.”<sup>14</sup> However, Pfizer unblinded the group anyway.<sup>15</sup>

7 B. “Effect on asymptomatic infection and infectiousness –Other designs needed.”<sup>16</sup>

8 64. On July 30, 2021, a report was posted on the Center for Disease Control and  
9 Prevention (“CDC”) website discussing how the Delta infection resulted in similarly high SARS-  
10 CoV-2 viral loads in vaccinated and unvaccinated people. High viral loads suggest an increased  
11 risk of transmission and raised concern that vaccinated people can transmit the virus. This  
12 finding was a pivotal discovery leading to CDC’s updated mask recommendation. The masking  
13 recommendation was updated to ensure the vaccinated public would not unknowingly transmit  
14 virus to others, including their unvaccinated or immunocompromised loved ones.<sup>17</sup>

15 65. On August 6, 2021 the director of the CDC, Rochelle Walensky stated to Wolf  
16 Blitzer that, “Our vaccines are working exceptionally well. . . . They continue to work well for  
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22 14 162nd VACCINES AND RELATED BIOLOGICAL PRODUCTS ADVISORY COMMITTEE SUMMARY  
23 MINUTES, [https://www.fda.gov/advisory-committees/advisory-committee-calendar/vaccines-and-related-  
biological-products-advisory-committee-december-10-2020-meeting-announcement](https://www.fda.gov/advisory-committees/advisory-committee-calendar/vaccines-and-related-biological-products-advisory-committee-december-10-2020-meeting-announcement),  
<https://www.fda.gov/media/144958/download>, December 10, 2020, accessed October 18, 2022.

24 15 See Discussions by FDA regarding EUA for Moderna.

25 16 Steven Goodman, MD, MHS, PhD, *Considerations for placebo-controlled trial design if an unlicensed vaccine  
26 becomes available*, p. 20, VRBAC, [https://www.fda.gov/advisory-committees/advisory-committee-  
calendar/vaccines-and-related-biological-products-advisory-committee-october-22-2020-meeting-  
announcement#event-materials](https://www.fda.gov/advisory-committees/advisory-committee-calendar/vaccines-and-related-biological-products-advisory-committee-october-22-2020-meeting-announcement#event-materials), <https://www.fda.gov/media/144582/download>, December 17, 2020, accessed  
October 18, 2022.

27 17 Brown CM, Vostok J, Johnson H, et al. Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine  
28 Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021.  
MMWR Morb Mortal Wkly Rep 2021;70:1059-1062. DOI: <http://dx.doi.org/10.15585/mmwr.mm7031e2>, accessed  
October 18, 2022.

1 Delta, with regard to severe illness and death – they prevent it. But what they can’t do anymore  
2 is prevent transmission.”

3 66. Additionally, PeaceHealth had a COVID-19 outbreak originating from a patient  
4 including “fully” vaccinated individuals.<sup>18</sup>

5 67. Based on these and other statements by officials in the Federal Government,  
6 evidence from the drug companies, and other studies, and its own experience that the vaccines  
7 were not effective in stopping the transmission of COVID-19, PeaceHealth knew or should have  
8 known that the vaccine could not stop transmission, and that despite vaccination status, the use  
9 of Personal Protective Equipment (“PPE”) and other countermeasures would be required for all  
10 staff (vaccinated and unvaccinated alike) to prevent infecting patients. PeaceHealth demonstrated  
11 this conclusion by requiring the use of additional PPE for even the vaccinated staff. The  
12 additional requirements of PPE for vaccinated staff demonstrates that PeaceHealth knew of or  
13 questioned the ineffectiveness of vaccine ceasing transmission of COVID-19.<sup>19</sup>

14 68. On information and belief despite knowing the vaccine did not stop infection and  
15 transmission, PeaceHealth required infected, but vaccinated workers to return to work because of  
16 the staffing shortages caused by the vaccine mandate in contradiction that the mandate was  
17 intended to protect patients. Additionally, because PeaceHealth did not require regular testing or  
18 proof of testing for COVID-19 for all PeaceHealth employees, it allowed asymptomatic  
19 individuals who had COVID-19 to work without additional limitations beyond.  
20  
21  
22

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26 18Wochnick, Meg, *PeaceHealth COVID outbreak traced to patient; 3 of 4 infected workers unvaccinated*, published  
27 in the *Columbian*, July 19, 2021, 12:50pm. [https://www.columbian.com/news/2021/jul/19/peacehealth-covid-](https://www.columbian.com/news/2021/jul/19/peacehealth-covid-outbreak-traced-to-patient-3-of-4-infected-workers-unvaccinated/)  
[outbreak-traced-to-patient-3-of-4-infected-workers-unvaccinated/](https://www.columbian.com/news/2021/jul/19/peacehealth-covid-outbreak-traced-to-patient-3-of-4-infected-workers-unvaccinated/)

28 19 PeaceHealth’s COVID-19 Vaccine Information, available at: <https://www.peacehealth.org/about-peacehealth/safety>. Last accessed 12/11/2022.

1 *PeaceHealth was acting as a trial run for the State of Washington’s vaccine*  
2 *mandate*

3 69. On information and belief, PeaceHealth agreed to be a test case for the vaccine  
4 mandate for health care workers issued by Governor Jay Inslee.<sup>20</sup>

5 70. On or about August 3, 2021, PeaceHealth announced it would be requiring all  
6 employees to be fully vaccinated on or about September 1, 2021, as a condition of  
7 employment.<sup>21</sup>

8 71. A spokesperson of the hospital said, “This was a wrenching decision, a difficult  
9 decision. But at the end of the day our primary ethical decision is to keep our patients safe. We  
10 didn’t have a choice but to take this hard stance. . . . I’m proud of the fact that we are one of the  
11 first to take this stance.”<sup>22</sup>

12 72. On August 9, 2021, Jay Inslee issued Proclamation 21-14 which required all  
13 health care workers in Washington to be vaccinated by October 18, 2021.

14 73. On information and belief, though Governor Inslee’s Proclamation purportedly  
15 allowed for religious accommodations to the vaccine requirement, neither PeaceHealth nor the  
16 Governor intended to grant accommodations. The Governor’s desire to withhold or limit  
17 exemptions for religious persons was evidenced by correspondence between his General  
18 Counsel, Ms. Kathryn Leathers, and the Washington Attorney General’s office, where Ms.  
19  
20  
21

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24 \_\_\_\_\_  
25 20 See: *Proclamation By the Governor 21-14, Amending Proclamation 20-05: COVID-19 Requirement*. Available  
at: [https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-](https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-19%20Vax%20Washington%20%28tmp%29.pdf)  
[19%20Vax%20Washington%20%28tmp%29.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-19%20Vax%20Washington%20%28tmp%29.pdf). Last accessed: December 10, 2022.

26 21 *PeaceHealth Requires COVID-19 Vaccination*. Available at:  
[https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-](https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-19%20Vax%20Washington%20%28tmp%29.pdf)  
[19%20Vax%20Washington%20%28tmp%29.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/21-14%20-%20COVID-19%20Vax%20Washington%20%28tmp%29.pdf). Last accessed: December 11, 2022.

27 22 Azar, Kellee, KATU Staff, PeaceHealth is SW Washington puts hundreds on leave who aren’t vaccinated,  
28 published Friday September 3, 2021, [https://komonews.com/news/local/peacehealth-in-sw-washington-puts-](https://komonews.com/news/local/peacehealth-in-sw-washington-puts-hundreds-on-leave-who-arent-vaccinated)  
hundreds-on-leave-who-arent-vaccinated.

1 Leathers stated, regarding the COVID-19 vaccine shots: “Exemptions: medical for sure; and  
2 religious (if we have to; if yes, as narrow as possible).”<sup>23</sup>

3 74. On information and belief, the State of Washington and PeaceHealth worked  
4 together to devise an accommodation process that was purely pretextual and would provide  
5 cover to discriminate against religious adherents with sincerely held beliefs that prevented them  
6 from being vaccinated.  
7

8 75. On information and belief, PeaceHealth has long had a requirement for the flu  
9 vaccine, but has allowed religious objectors to opt out with a simple declination after viewing a  
10 video. The accommodation required the objector to wear a surgical mask except while eating in  
11 the break room and the withholding of a name tag sticker which indicated an individual had  
12 received the flu vaccine.

13 76. Those with medical exemptions to the flu vaccine or other vaccines were required  
14 to have a doctor’s verification of exemption and were then granted the same accommodation.  
15

16 77. With the implementation of the COVID Vaccination policy, PeaceHealth  
17 implemented a new procedure for claiming a religious accommodation which included a much  
18 more intrusive questionnaire and investigation.

19 78. On information and belief, PeaceHealth originally required a letter requesting  
20 accommodation, which had to be requested before the September 1, 2021, deadline.  
21

22 79. After the September 1, 2021 deadline, PeaceHealth required all employees who  
23 had requested a religious exemption to fill out a new form with the threat of revoking the  
24 religious exemption already granted. The due date for this new form was October 18, the same  
25 deadline for vaccination of Healthcare workers instituted by Governor Jay Inslee.  
26

27 <sup>23</sup> Kruse, Brandi. *Emails: State sought to make religious vaccine exemption ‘as narrow as possible.’* Available at:  
28 <https://www.q13fox.com/news/emails-state-sought-to-make-religious-vaccine-exemption-as-narrow-as-possible>.  
August 24, 2021. Last accessed December 11, 2022. Leathers’ emails reproduced as Exhibit 6.

1 80. This questionnaire and investigation was very similar to the questionnaire and  
2 investigation implemented by State agencies throughout Washington State.

3 81. Additionally, medical exemptions were declined, including routine or common  
4 exemptions that PeaceHealth had accommodated prior to emergence of COVID-19.

5 82. Ultimately, PeaceHealth granted zero religious accommodations and all  
6 employees seeking religious accommodations were required to use Paid Time Off (“PTO”).  
7 Once the employee expended PTO, (s)he was placed on unpaid administrative leave (“Leave”).  
8 These employees remain on Leave and cannot return to work unless and until: (1) they become  
9 “fully” vaccinated against COVID-19; or (2) PeaceHealth rescinds its policy requiring “full”  
10 vaccination against COVID-19 as a condition of employment. All benefits were suspended,  
11 including 401k contributions and matching. This unpaid administrative leave and suspension of  
12 benefits continues to be extended despite Governor Inslee ending the state of emergency on  
13 October 31, 2021.<sup>24</sup>  
14  
15

16 83. During the pendency of the exemption process many of the employees were  
17 harassed, bullied, and subjected to a hostile work environment. Unvaccinated employees were  
18 often viewed and treated as though they were a danger to others even though the information  
19 provided by the State and Federal Government clearly indicated that the vaccines failed to cease  
20 transmission of COVID-19. Comments from managers included, “you’re putting a nail into your  
21 own coffin if you’re not taking a COVID vaccine! No one will hire you.”  
22

23 ///

24 ///

25 ///

26 ///

27 \_\_\_\_\_  
28 <sup>24</sup> <https://www.governor.wa.gov/news-media/inslee-announces-end-remaining-covid-19-emergency-orders-and-state-emergency-october-31>

1 ***PeaceHealth could have Accommodated Unvaccinated Employees with a***  
2 ***de minimis burden***

3 84. Until PeaceHealth put all unvaccinated employees on unpaid administrative leave,  
4 PeaceHealth employees had been working throughout the pandemic, over a year and a half, using  
5 PPE and other countermeasures.

6 85. By July 27, 2021 the CDC acknowledged that “preliminary evidence suggests that  
7 fully vaccinated people who do become infected with the Delta variant can spread the virus to  
8 others.”<sup>25</sup>

9 86. With the CDC’s admission that vaccination against COVID-19 does not cease  
10 transmission of the disease, PeaceHealth could have adopted alternative COVID-19  
11 countermeasures that had worked previously and allowed the unvaccinated workers left on staff  
12 at no extra expense for the hospital.

13 87. PeaceHealth never imposed a vaccine mandate upon the patients themselves.

14 ***Plaintiffs’ Asserted Sincerely Held Religious Beliefs***

15 88. Plaintiffs all have sincerely held religious beliefs that precluding each from  
16 complying with PeaceHealth’s Mandatory COVID-19 Vaccination Policy as each vaccine has a  
17 connection with the use of cell lines of aborted fetuses (in their origination, production,  
18 development, or testing).

19 89. A fundamental component of Plaintiffs’ sincerely held religious beliefs is that all  
20 life is sacred, from the moment of conception to natural death, and that abortion is a grave sin  
21 against God and the murder of an innocent life.

22 ///

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27 \_\_\_\_\_  
28 25Centers for Disease Control and Prevention, COVID-19, Interim Public Health Recommendations for Fully  
Vaccinated People, <https://web.archive.org/web/20210728032236/https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

V. CLASS ALLEGATIONS

1  
2 90. Plaintiffs bring this class action under Federal Rules of Civil Procedure 23(b)(2)  
3 on behalf of themselves and a class of all other persons similarly situated PeaceHealth  
4 employees, including those on active status and those on administrative leave.

5 91. Plaintiffs seek to represent the following class:

6  
7 All PeaceHealth employees who are or will be placed on administrative leave  
8 without pay or terminated by PeaceHealth as an accommodation to a request  
9 for a seeking a religious or medical exemption and accommodation to  
PeaceHealth’s COVID-19 vaccine requirement.

10 92. All Plaintiffs are adequate representatives of the proposed class.

11 93. The proposed class satisfies the requirements of Rule 23(a)(1) because the class is  
12 so numerous that joinder of all members is impracticable.

13 94. Upon information and belief, there are at least eight hundred (800) PeaceHealth  
14 employees that currently fit within the class. The precise number and identification of the class  
15 members will be ascertainable from PeaceHealth’s records during discovery.

16 95. There are common questions of law and fact and common claims to all members  
17 of the class that satisfy the requirements of Rule 23(a)(2) and (3). Those common questions and  
18 claims include, but are not limited to, the following:  
19

- 20 a. Did PeaceHealth comply with federal and state law when it indiscriminately  
21 denied religious exemption and accommodation requests *en masse*?  
22  
23 b. Did PeaceHealth comply with federal and state law when it informed the  
24 Plaintiffs that while their exemptions were finally “approved,” it would be an  
25 “undue hardship” on PeaceHealth for them to keep their current positions,  
26 irrespective of any alternative safety measures that Plaintiffs are willing to  
27  
28

1 undertake, and that other healthcare employers in Washington and throughout the  
2 country allow their employees to undertake?

3 c. Did PeaceHealth comply with its obligations under federal law to engage in the  
4 interactive process when responding to each exemption request?

5 d. Did PeaceHealth violate federal and state law when it refused Plaintiffs and others  
6 exemption requests premised on the link between the vaccines and abortion?

7 e. Did PeaceHealth provide an adequate mechanism for requesting and obtaining a  
8 religious exemption through the “interactive” exemption, accommodation, and  
9 appeal processes when Plaintiffs and others had limited time to appeal

10 PeaceHealth’s decision and to provide medical and personal history, and  
11 PeaceHealth continued deny them based on the lack of “evidence-based criteria”?  
12

13 f. Did PeaceHealth violate federal and state law when it pressured its employees to  
14 accept vaccination against their religious beliefs by posting their jobs and  
15 recruiting their replacements; and when it removed employees from the  
16 November work schedule, even as their appeals were supposedly still pending?  
17

18 g. Plaintiffs’ claims are typical of the claims of the class because they, like the class  
19 members, requested exemptions and accommodations from the Mandatory  
20 COVID-19 Vaccination Policy and PeaceHealth denied those requests.  
21

22 h. For the same reason, Plaintiffs will fairly and adequately protect the interests of  
23 the class.

24 i. The question of law or fact common to the members of the class predominate over  
25 any questions affecting only individual members, and a class action is superior to  
26 other available methods for fairly and efficiently adjudicating Plaintiffs’ claims.  
27

28 Joinder of all members is impracticable.

1 96. The proposed class meets the adequacy requirements of Federal Rule of Civil  
2 Procedure 23(a)(4), because the claims of the representative Plaintiffs are typical of the claims of the  
3 class. The representative Plaintiffs seek the same relief as the other members of the class—namely,  
4 an order declaring Defendants’ denial of accommodations to Plaintiffs’ religious requests for  
5 exemption/accommodation to Defendants COVID-19 vaccine mandate and enjoining Defendants  
6 from prohibiting Plaintiffs’ from on-site employment at each Plaintiffs’ respective PeaceHealth  
7 facility, and the related damages. Plaintiffs will defend the rights of all proposed class members fairly  
8 and adequately.

9  
10 97. The proposed class is represented by the Silent Majority Foundation (“SMF”) which  
11 has been litigating individual and mass tort litigation on behalf of individuals seeking religious  
12 accommodations from workplace COVID-19 mandates throughout Washington. SMF is also  
13 currently seeking class certification on behalf of 245 members of the United States Coast Guard  
14 challenging the United States government’s COVID-19 mandate in the Southern District of Texas  
15 (*Bazzrea v. Austin*, 3:22-cv-265 (SDTX, filed July 25, 2022)).

16 98. The Members of the class are readily ascertainable through Defendants’ records.

17  
18 99. The proposed class also satisfies Federal Rule of Civil Procedure 23(b)(2) as  
19 Defendants have acted on grounds generally applicable to the class by unlawfully discriminating  
20 against Plaintiffs religious beliefs. Defendants have also unreasonably delayed in allowing Plaintiffs  
21 to return to work. Injunctive and declaratory relief is thus appropriate with respect to the class as a  
22 whole.

23 **VI. FIRST CLAIM FOR RELIEF**

24 **(Unlawful Discrimination in Contravention of Title VII of the Civil Rights Act – 42 U.S.C.**  
25 **§2000e et seq.)**

26 100. Plaintiffs reallege all paragraphs above and below as if fully set forth herein.

27 101. Plaintiffs are members of a protected class based on their religious beliefs.

1 102. Plaintiffs' sincerely held religious beliefs conflict with the PeaceHealth's  
2 COVID-19 vaccine mandate.

3 103. When Plaintiffs raised religious objections to taking the COVID-19 vaccine based  
4 on sincerely held beliefs, PeaceHealth failed to make a good faith effort to accommodate  
5 Plaintiffs' religious beliefs. Such accommodations would be required a *de minimis* effort, would  
6 not have been an undue hardship to PeaceHealth, and would have allowed Plaintiffs to continue  
7 working with PPE, regular testing, and other countermeasures to protect against the spread of  
8 COVID-19, as was done for over a year and a half before the imposition of the COVID-19  
9 vaccine mandate.  
10

11 104. Instead of finding a reasonable accommodation or set of accommodations for  
12 Plaintiffs, PeaceHealth engaged in a series of adverse employment actions which continue to this  
13 day.  
14

15 105. As a direct and proximate result of the aforesaid complained of conduct and  
16 violation of Title VII, each respective Plaintiff sustained pecuniary and non-economic injuries in  
17 an amount that exceeds \$75,000.00, including lost wages, benefits, retirement funds, the denial  
18 of promotional opportunity, humiliation, embarrassment, unnecessary pain and suffering,  
19 attorneys' fees, and costs associated with this action.  
20

21 106. Plaintiffs have filed and are filing charges with the EEOC complaining of these  
22 discriminatory actions, accompanied by attorney-requested immediate right to sue, which is  
23 expected imminently. This Court may exercise its equity jurisdiction to grant preliminary  
24 injunctive relief to preserve the status quo pending completion of the EEOC's administrative  
25 process. *See e.g., Sheehan v. Purolator Courier Corp.*, 676 F.2d 877, 884 (2d Cir. 1981); *Drew*  
26 *v. Liberty Mut. Ins. Co.*, 480 F.2d 69, 74 (5th Cir. 1973); *Bailey v. Delta Air Lines, Inc.*, 722 F.2d  
27 942, 944-45 (1st Cir. 1983).  
28

**VII. SECOND CLAIM FOR RELIEF**  
**(PeaceHealth exceeded authority under Emergency Use Authorization statute. 21 U.S.C. 360bbb)**

107. Plaintiffs reallege all paragraphs above and below as if fully set forth herein.

108. The authority to determine consequences for not receiving an EUA product rests solely with the Secretary of Health and Human Services pursuant to 21 U.S.C. 360bbb-3(e)(1)(A)(i)(III).<sup>26</sup>

109. The Secretary of Health and Human Services did not make the loss of a job one of the consequences for refusing an EUA vaccine.

110. In fact, because under the EUA unapproved products, by definition, are investigational drugs, the principles of the Belmont Report and the protection Human subjects must apply pursuant to 42 U.S.C. 289 and The Common Rule under 45 CFR 46.

111. Pursuant to 45 CFR 46(a)(1), legally effective informed consent must be obtained before an experimental product can be administered to an individual. Such informed consent cannot be obtained under circumstances of coercion or undue influence.

112. The vaccine mandate and subsequent unpaid leave of individuals was an attempt by PeaceHealth to coerce consent for an experimental product.

113. Such coercion is contrary to ethical principles of medical care and Plaintiffs have a right to be free of such coercion.

**VIII. THIRD CLAIM FOR RELIEF**  
**(Unlawful Employment Discrimination Based on Religion in Contravention of the Washington Law Against Discrimination RCW 49.60)**

114. Plaintiff realleges all paragraphs above and below as if fully set forth herein.

<sup>26</sup> “Appropriate conditions designed to ensure that individuals to whom the product is administered are informed . . . of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.” 21 U.S.C. 360bbb-3(e)(1)(A)(i)(III).

1 115. Plaintiffs are members of a protected class based on their religious beliefs.

2 116. Plaintiffs' sincerely held religious beliefs conflict with the PeaceHealth's  
3 COVID-19 vaccine mandate.

4 117. When Plaintiffs raised religious objections to taking the COVID-19 vaccine based  
5 on sincerely held beliefs, PeaceHealth failed to make a good faith effort to accommodate  
6 Plaintiffs' religious beliefs; rather, PeaceHealth took a universal approach to "accepting  
7 Plaintiffs' religious objections" while disclaiming the ability to accommodate the requests. It  
8 would not have been an undue hardship to have allowed Plaintiffs to continue working with PPE,  
9 regular testing, and other countermeasures to protect against the spread of COVID-19, as was  
10 done for over a year and a half before the imposition of the COVID-19 vaccine mandate.

11 118. Instead of finding a reasonable accommodation or set of accommodations for  
12 them, PeaceHealth engaged in a series of adverse employment actions, which continue to this  
13 day.  
14

15 119. As a result of PeaceHealth's violation of RCW 49.60 Plaintiffs have each lost  
16 more than one year's worth of wages and benefits in an amount to be determined at trial.  
17

18 **IX. FOURTH CLAIM FOR RELIEF**  
19 **(Wage Theft in Contravention of RCW 49.48)**

20 Plaintiffs reallege all paragraphs above and below as if fully set forth herein.

21 120. The term "wages" is liberally defined under Washington Law and includes,  
22 without limitation, vested pension rights.

23 121. Pension rights are vested upon the commencement of employment in Washington  
24 State and were vested in some or all of the Plaintiffs.

25 122. The Plaintiffs were wrongfully deprived of their wages, including pension rights,  
26 and are entitled to repayment of such wages.

27 ///



**XI. SIXTH CLAIM FOR RELIEF**  
**(Declaratory Relief)**

133. Plaintiffs reallege all paragraphs above and below as if fully set forth herein.

134. For all the forgoing reasons, Plaintiffs request that the Court declare PeaceHealth's COVID-19 vaccine requirement unlawful, unconstitutional, and unenforceable.

**XII. SEVENTH CLAIM FOR RELIEF**  
**(Injunctive Relief)**

135. Plaintiffs reallege all paragraphs above and below as if fully set forth herein.

136. PeaceHealth's COVID-19 vaccine requirement threatens immediate and irreparable harm to Plaintiffs, including a loss of highly trained employees.

137. Monetary damages or other remedies at law cannot adequately address the injury caused by the COVID-19 vaccine requirement as Plaintiffs cannot return to work at PeaceHealth until PeaceHealth rescinds the requirement.

138. Balancing the hardships to Plaintiffs relative to the hardships to Defendants, extraordinary equitable relief is warranted.

139. Permanent injunctive relief would not disserve the public interest, because it would enjoin unconstitutional and illegal action.

**XIII. REQUEST FOR RELIEF**

**WHEREFORE, the Plaintiffs pray:**

140. A judgment in favor of Plaintiff and against Defendant on both claims in an amount to be determined at trial but exceeding \$10,000,000.00.

141. A finding that Defendants have discriminated against Plaintiffs on the basis of Plaintiffs' sincerely held religious beliefs.

142. A declaration from this Court that the Plaintiffs' right to be free from arbitrary and capricious government action has been infringed.

143. A declaration from this Court that PeaceHealth has exceeded its authority.

1 144. A declaration from this Court that the Plaintiffs are entitled to their wages and  
2 benefits.

3 145. A preliminary and permanent injunction from being prevented from working for  
4 PeaceHealth based on vaccination status.

5 146. Attorney fees and exemplary damages as authorized by 42 U.S.C. § 1988, other  
6 statute, contract or recognized ground of equity, as applicable.

7 147. That the Plaintiffs be granted such other, further, and different relief as the nature  
8 of the case may require or as may be just, equitable, and proper to the Court.  
9

10  
11 **RESPECTFULLY SUBMITTED** this 12<sup>TH</sup> day of **December, 2022.**  
12

13  
14 **SILENT MAJORITY FOUNDATION**

15  
16 /s/Simon Peter Serrano

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22 Counsel for Plaintiffs  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of December 2022, I electronically filed the foregoing document with the Clerk of the United States District Court using the CM/ECF system which will send notification of such filing to all parties who are registered with the CM/ECF system.

DATED this 12th day of December 2022.

/s/Madeline Johnson  
Madeline Johnson

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