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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**

10) **CASE NO.**
11 DAVID A. LARSON,)
12) **PLAINTIFF'S COMPLAINT FOR**
13 Plaintiff,) **TEMPORARY RESTRAINING**
14) **ORDER AND DECLARATORY**
15 v.) **AND INJUNCTIVE RELIEF**
16) **11/29/2021**
17 JAY INSLEE, individually and as the)
18 governor of the State of Washington,) **Oral argument requested**
19 DR. JEFF DUCHIN, individually and)
20 as the King County Health Officer.) **JURY DEMANDED**
21)
22 Defendants.)

23 **INTRODUCTION**

- 24 1. Plaintiff, David A. Larson is a civically engaged community member serving within the
25 Kiwanis organization and as the founder and advisor for the Aktion Club of Federal Way, a
practicing person of faith, a movie-goer who subscribes to a monthly rewards program with
Cinemark, who uses the Federal Way Community Center for exercise purposes.
2. Plaintiff desires to attend the Battle in Seattle at the Climate Change Arena on December 4,
2021, but has been prohibited from participating in this, and other activities, by Defendants.

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Specifically, Plaintiff cannot purchase tickets to the Battle in Seattle without: (1) waiving private medical records; or (2) providing proof of the results of invasive medical testing procedures (Plaintiff’s Declaration at ¶ 5).

3. On October 18, 2021, Defendant Governor Jay Inslee signed Proclamation 21-16, which prohibits individuals after November 15, 2021 from attending larger events (defined as 1,000 or more attendees for indoor events and 10,000 attendees or greater for outdoor events) unless those individuals disclose their COVID-19 status.
4. On September 16, 2021, the King County Health Officer, Dr. Jeff Duchin, issued an Order (“Order” or “the Order”) that prohibits as of October 25, 2021 individuals from frequenting restaurants, movies theaters, gyms, and other venues unless those individuals disclose their COVID-19 vaccination status or provide proof of COVID-19 testing.
5. On November 23, 2021, King County published its *Public Health Insider* in which it declared that “Now that businesses have had nearly a month to come into compliance with vaccine verification, we will begin to implement enforcement mechanisms, if needed, for businesses that choose to violate the order even after multiple warnings from Public Health.” The *Public Health Insider* publication noted that violations of the Order could include business closure.
6. Plaintiff is unlawfully prohibited from attending and patronizing these locations.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to 28 USC § 1331, 28 USC § 1343(a)(3), 42 USC § 1983, and 42 USC § 2000a.
8. Venue is appropriate in this Court where the 28 USC § 1391 because the Defendants are located in the Western District of Washington and the acts complained of occurred in the

1 Western District of Washington.

2 **PARTIES**

3 9. Plaintiff David A. Larson is a resident of Federal Way, King County, Washington.

4 10. Defendant, Jay Inslee, is the governor of the State of Washington. His domicile and
5 official residence, and work place are located in Olympia, Thurston County,
6 Washington.

7 11. Defendant, Dr. Jay Duchin, is the duly appointed health officer in King County,
8 Washington who carries out his official duties throughout King County.

9 **FACTS**

10 12. On October 18, 2021, Defendant Governor Jay Inslee signed Proclamation 21-16.
11 Proclamation 21-16 became effective on November 15, 2021, and it prohibits individuals from
12 attending “ticketed or preregistered assembly of 10,000 or more individuals at an outdoor
13 venue” or “1,000 or more individuals at an indoor venue” absent proof of having “(1) been
14 fully vaccinated against COVID-19 and provided proof thereof to the Large Event Organizer,
15 or (2) received a negative result from an FDA-approved molecular (e.g., PCR) or antigen
16 COVID-19 test performed on a specimen collected from the individual within the 72 hours
17 preceding the individual’s attendance at the Large Event and provided proof thereof to the
18 Large Event Organizer...”

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20 13. The Proclamation is punitive as “Violators of this order may be subject to criminal penalties
21 pursuant to RCW 43.06.220(5).”

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23 14. On September 16, 2021, the King County Health Officer, Dr. Jeff Duchin issued an order
24 requiring as of October 25, 2021 that “all patrons and customers 12-years of age and older”
25 must provide “verification that they are fully vaccinated” at any outdoor event with 500 or

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more people, at “indoor restaurants, bars, and taverns with seating capacity of 12 and more,” at “indoor entertainment and recreational establishments, such as gyms, fitness facilities, public pools, entertainment and performing arts venues, night clubs, music and concert venues, movie theaters, museums, collegiate and professional sports stadiums and arenas, exhibition halls, and convention centers.”

15. As of December 6, 2021, all “Indoor restaurants, bars, and taverns with seating capacity of less than 12” must also screen customers for proper verification of their medical status before being able to serve them. Violation of a health department order is a misdemeanor under RCW 70.05.120(4).

16. Plaintiff, David A. Larson, is a resident of King County and is unlawfully prohibited from attending meetings and other functions at restaurants, work out at a government owned community center/gym, watch a movie at his local movie theater, attend sporting events and attend other large events without being forced to disclose his private medical status as a condition of entry and without fear of criminal prosecution.

17. Defendants have no statutory or constitutional authority to create or enforce the requirements and prohibitions complained of in this action.

18. Defendants are acting under color of state authority pursuant to 42 USC § 1983.

FIRST CAUSE OF ACTION

**VIOLATION OF ARTICLE IV § 4 OF THE UNITED STATES CONSTITUTION
AND WASHINGTON CONSTITUTION, ARTCILE I, §1**

19. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

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1 20. Article IV § 4 of the United States Constitution provides, in pertinent part, that “The United
2 States shall guarantee to every State in this Union a Republican Form of Government...”

3 21. The defendants have violated Article IV § 4 by unilaterally enacting and enforcing
4 proclamations, orders, and directives in disregard for the duly adopted laws and Constitution
5 of the State of Washington and in disregard for, and in excess of, their legal authority.

6 22. Defendants’ actions have also violated Article I § 1 of the Constitution of the State of
7 Washington by removing power inhering in the people.

8 **SECOND CAUSE OF ACTION**

9 **VIOLATION OF FOURTH AMENDMENT OF THE UNITED STATES**
10 **CONSTITUTION AND ARTICLE I § 7 OF THE WASHINGTON STATE**
11 **CONSTITUTION AND VIOLATION OF RIGHT TO PRIVACY AND BODILY**
12 **INTEGRITY**

13 23. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the
14 preceding paragraphs.

15 24. Defendants’ proclamations and orders seek to compel plaintiff and others similarly situated to
16 undergo a medical procedure and/or to disclose their medical status to others in order to engage
17 in activities.

18 25. Defendants’ actions are in violation of the Fourth Amendment to the United States
19 Constitution.

20 26. Defendants’ actions are in violation of Article 1§ 7 of the Constitution of the State of
21 Washington.

22 27. The Proclamation and the Order violate Plaintiff’s right to bodily integrity as these edicts seek
23 to limit Plaintiff’s choices on medical procedures as weighed against attending events held in
24 public spaces.
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THIRD CAUSE OF ACTION

**VIOLATION OF THE FIRST AMENDMENT TO THE UNITED STATES
CONSTITUTION AND ARTICLE I § 4 OF THE WASHINGTON CONSTITUTION**

28. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

29. In addition to those allegations set forth in Paragraph 17, defendants’ proclamations and orders seek to prohibit plaintiff and others similarly situated from attending public events and from participating in public activities all without legal authority to prohibit participation in such activities.

30. Defendants’ actions are in violation of the right to assemble found in the First Amendment to the United States Constitution.

31. Defendants’ actions are in violation of the right to assemble found in Article 1§ 4 of the Constitution of the State of Washington.

FOURTH CAUSE OF ACTION

**VIOLATION OF FREEDOM OF CONSCIENCE AND RELIGIOUS LIBERTY, 42 USC
2000a AND ARTICLE I, §§ 7 AND 11 OF THE WASHINGTON CONSTITUTION**

32. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

33. Religion and matters of conscience are private and protected by the First Amendment to the United States Constitution and Article I §11 of the Washington Constitution, which provides “Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion.”

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1 34. Defendants’ proclamations and orders fail to provide religious exemptions. This discriminates
2 against people of faith in violation of state and federal law by depriving them of the ability and
3 right to engage in public activities due to sincerely held religious beliefs. In addition, even if
4 such an exemption did exist the plaintiff and others similarly situated would be forced to
5 disclose their private views on religion and other matters of conscience for the sole purpose of
6 engaging in normal daily activities which is also in violation of Article I § 7 of the Washington
7 State Constitution.

8 35. Defendants’ conduct is also in violation of 42 USC § 2000a because such conduct
9 discriminates because of religion.

10 **FIFTH CAUSE OF ACTION**

11 **VIOLATION OF FOURTEENTH AMENDMENT OF THE UNITED STATES**
12 **CONSTITUTION AND ARTICLE I §12 OF THE WASHINGTON CONSTITUTION**

13 36. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the
14 preceding paragraphs.

15 37. The Fourteenth Amendment provides that no state shall deprive people of privileges,
16 immunities, or equal protection of the law.

17 38. Article I §12 of the Washington Constitution provides that “No law shall be passed granting
18 to any citizen, class of citizens, or corporation other than municipal, privileges or immunities
19 which upon the same terms shall not equally belong to all citizens, or corporations.”
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21 39. Defendants’ proclamations and orders treat people differently and deprive them of public
22 accommodations without legal authority or justification.

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SIXTH CAUSE OF ACTION

INJUNCTIVE RELIEF AND DECLARATORY RELIEF

40. This Court has the power to grant injunctions pursuant to 28 USC § 2201, 42 USC § 1983, and 42 USC § 2000a-3.

41. Plaintiff has personal standing to seek declaratory relief under 28 USC § 2201.

42. Unless Defendants are enjoined from enforcing their orders, the status quo cannot be maintained during the legal process, the legal rights of affected individuals will be irreparably harmed and impaired, and they will be denied any meaningful and effective remedy.

43. Unless temporarily enjoined during these proceedings and permanently thereafter from giving effect to the defendants' proclamations and orders, the constitutional rights of the plaintiff will be irreparably harmed; therefore, declaratory relief is also appropriate.

44. Plaintiff is without any plain, speedy, or adequate remedy at law; unless the defendants are enjoined, Plaintiff will be deprived of any meaningful remedy and suffer irreparable harm.

45. Defendants should be enjoined from giving effect to or otherwise implementing the proclamation and order during the pendency of these proceedings and permanently enjoined thereafter.

RELIEF REQUESTED

A. A Declaration that Proclamation 21-16 is invalid and unenforceable.

B. A Declaration that the above-referenced King County Health Order is invalid and unenforceable.

C. A Temporary Restraining Order, Preliminary Injunction, or a Permanent Injunction restraining the defendants and agents and subordinates from enforcing, directly or indirectly, the aforementioned proclamation and order.

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- D. An award of reasonable attorney's fees under 42 USC § 1983 and any other costs at the discretion of this Court.
- E. Any other damages or awards that this Court deems appropriate.

DATED this 29th day of November 2021.

SILENT MAJORITY FOUNDATION



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