IN THE SUPREME COURT OF OHIO

State Ex Rel. Ohio Stands Up!

Plaintiff-Relator,

vs.

Michael DeWine, Governor of
the State of Ohio
and

Kimberly Murnieks, Director of the
Office of Budget and Management

Defendants-Respondents.

Case No.: _____

ORIGINAL ACTION IN PROHIBITION
AND MANDAMUS

PLAINTIFF-RELATOR'S PRESENTATION OF EVIDENCE

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* (COUNSEL OF RECORD)

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COUNSEL FOR PLAINTIFF-RELATOR

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RELATORS' PRESENTATION OF EVIDENCE

COMES NOW Relator, Ohio Stands Up!, by and through counsel, and hereby gives notice of the filing of the evidence upon which it will rely in this action in order to establish Relator's right to the issuance of a Writ of Prohibition. Attached hereto is an Affidavit of Robert J. Gargasz, Esq. executed on May 24, 2021. In addition to the attached, Relator will also rely upon the evidence attached thereto that is described in the affidavit which demonstrates the factual assertions as stated in the complaint to warrant the issuance of the writs.

This evidence is sufficient for Relators to establish their right to a Writ of Prohibition and Writ of Mandamus and such Writs and Orders should issue.

Respectfully submitted,

Robert J. Gargasz, Esq. (0007136)
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CERTIFICATE OF SERVICE

A copy of the foregoing Relators' Presentation of Evidence was sent via regular US mail, and postage prepaid, and on May 25, 2021.

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ORIGINAL ACTION IN PROHIBITION
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AFFIDAVIT OF ROBERT J. GARGASZ, ESQ.
Provided in Support of Plaintiff-Relator Action

STATE OF OHIO
Lorain County ss:

I, Robert J. Gargasz, being first duly sworn according to law state that I have personal knowledge of all the facts contained within this affidavit, and that I am competent to testify to the matters stated herein in this affidavit concerning this litigation:

1. All documents attached to this affidavit for record in this matter are true and genuine copies of the originals and each is incorporated herein and presented to support in all ways the plaintiff-Relator's causes and assertions of facts as declared and asserted in this action.

2. I am an Attorney at law and Relator's legal counsel in this action.

3. My client and its members have good cause to believe that Defendant Respondent Michael DeWine breaches his oath of office and violates the Ohio Constitution by his conduct and behaviors as set forth and articulated in the complaint.

4. As set forth in the affidavits of Dr. Scott Jensen, MD it is reckless to advance vaccine trials in children ages 0-17. This behavior by DeWine poses a direct threat to Ohio's Children that this Court must Prohibit. Relator is prepared to bring many more Doctors and scientists to this Court to prove that DeWine is and will harm children by seeking to inject these children with experimental drugs.

5. He violates international law by such behaviors and is committing war crimes against Ohio's Children. This Court must STOP HIM!

6. He violates the ADA and the OHIO CONSTITUTION AS has been set out in the Complaint. He has no right to illegally and unconstitutionally spend $5,000,000.00 without the General

Assembly authorizing and approving such expenditures. The statements made in the complaint are true and correct and are supported by the statements made in the Declarations of Scott Jensen, MD, Declarations of Steven M. Roth, MD, Documentation of Gov/BigPharma Conflict, Declaration Addressing Gain-of-Function Research, Patents and Dr. Anthony S. Fauci Conflict of Interest, and Declaration of David Martin, PhD.

7. Further, Affiant sayeth naught.

Robert J. Gargasz

Sworn to before me and subscribed in my presence this 24 day of May, 2021.

Notary Public

NOTARIAL SEAL
STATE OF OHIO

CORI L. SAUVEY
NOTARY PUBLIC
FOR THE
STATE OF OHIO
My Commission Expires
12/19/2022

I, Dr. Scott Jensen, MD, have been a practicing family medicine physician for forty years. I was honored to be the recipient of the "Minnesota Family Physician of the Year" Award in 2016. I am board-certified in family medicine. As part of my practice, I see patients of all ages. Approximately half are over the age of 70. Of those patients, approximately 75% have elected to receive one of the Emergency Use Authorized COVID vaccines. I am aware of the risks and benefits of these investigational agents as well as the current vaccine schedule for other diseases. Based on the most recent numbers from the CDC from May 5, 2021, anyone under the age of 17 is at statistically zero risk of dying of Covid 19 infection.

As per the CDC there have been 42,429 deaths from all causes in Americans ages 0-17. Of those deaths 248 tested positive for Covid 19. It is well known that a positive test is not a certain measure of COVID infection (in acknowledging the testing inaccuracies, on April 27, 2021 the CDC changed its guidelines to no longer accept test results in vaccinated patients with cycles > 28), thus the more accurate number is likely the 54 who had a positive COVID test *and* pneumonia listed as the cause of death. Using either number gives a statistically zero chance of death (0.0058 or 0.0012) being due to COVID 19 infection or complications from COVID-19 in this age group; thus it is reckless to advance vaccine trials in children ages 0-17.

As a board-certified family practitioner, I would be directly affected by a change in FDA guidelines regarding vaccines for young people, and as a result I am requesting an immediate TRO to halt this request. In addition to the direct threat posed to my young patients, an additional unwelcome consequence of using coercion to mandate the participation of healthy young people who are at a statistical zero risk, relates to a possible reduction in the public trust in all vaccines.

Scott Jensen, MD
Scott Jensen, MD (May 7, 2021 15:24 CDT)

Scott Jensen, MD

Dr. Scott Jensen Letter

Final Audit Report

2021-05-07

Created:	2021-05-07
By:	Drew Kachurak (dmk@drewkachurak.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAImf56qeWr4zzQAzYVQCuMQGWow6NdtZa

"Dr. Scott Jensen Letter" History

Document created by Drew Kachurak (dmk@drewkachurak.com)
2021-05-07 - 8:14:00 PM GMT- IP address: 76.237.139.5

Document emailed to Scott Jensen, MD (smj2203@gmail.com) for signature
2021-05-07 - 8:15:07 PM GMT

Email viewed by Scott Jensen, MD (smj2203@gmail.com)
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Document e-signed by Scott Jensen, MD (smj2203@gmail.com)
Signature Date: 2021-05-07 - 8:24:18 PM GMT - Time Source: server- IP address: 63.232.215.158

Agreement completed.
2021-05-07 - 8:24:18 PM GMT

DECLARATION OF STEVEN M. ROTH, MD

Steven M. Roth, MD, hereby declares:

I have been a practicing emergency medicine physician for 13 years. As part of my practice, I see patients of all ages. I am aware of the risks and benefits of these investigational agents as well as the current vaccine schedule for other diseases. Based on the most recent numbers from the CDC from May 5, 2021, anyone under the age of 17 has statistically zero risk of dying of Covid 19.

I have not seen a COVID-19 patient in many months, but I am seeing many patients come to the emergency department patients post-COVID-19 shot. All of these patients came in with COVID-like symptoms that occurred within 48 hours of the shot.

All of these patients required hospital admission.

Several of these patients progressed to death. From the vaccine.

My concern is that based upon what I am seeing in the community, and because of the schools asking for vaccines and putting obstacles around those who do not take it, young people are being pressured to take an experimental shot and many are succumbing to that pressure. This is very concerning because it is universally known that children virtually never die from COVID-19 and given that children have a very strong immune system, they

are more likely than adults to have an over-reaction to the shot. Meaning that there is zero benefit and only risk. Also, with all prior viruses and vaccines, it is accepted that natural immunity is superior to vaccination, and there is no basis to believe that would be different with SARS-CoV-2, meaning it is actually not preferable to give the vaccine even if it was definitely safe, which it is not.

I am extraordinarily concerned that there are no animal studies, no long-term animal studies because prior coronavirus vaccines all caused death in the animal studies portion, which was simply skipped this time.

I am aware of many thousands of physicians who agree with me, but we are pressured to not say anything. I am speaking up now, at great personal cost to myself, because I cannot live with myself if this is given to kids universally and we see death and destruction over the years. It is unconscionable that an experimental therapy will be given to children. Children are not mini-adults. Their organs are still forming and they are more vulnerable than adults to developing auto-immune disease in this situation.

I would be directly affected by a change in FDA guidelines regarding vaccines for young people, and as a result I am requesting an immediate TRO to halt this request. In addition to the direct threat posed to my young patients, an additional unwelcome consequence of using coercion to mandate

the participation of healthy young people who are statistically at zero risk is sharply reducing the public trust in all vaccines.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 12, 2021.

Steven M. Roth MD
Steven M. Roth MD (May 12, 2021 22:14 CDT)

Steven M. Roth, MD

Declaration of Steven M Roth MD

Final Audit Report

2021-05-13

Created:	2021-05-12
By:	Nancy Vazquez (nancy@joeygilbertlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAANSNMBiD9ucnDn9aDD5eHd-o5AkDcgOIF

"Declaration of Steven M Roth MD" History

Document created by Nancy Vazquez (nancy@joeygilbertlaw.com)
2021-05-12 - 6:49:16 PM GMT- IP address: 76.237.139.5

Document emailed to Steven M. Roth MD (smrothmd@gmail.com) for signature
2021-05-12 - 6:52:26 PM GMT

Email viewed by Steven M. Roth MD (smrothmd@gmail.com)
2021-05-13 - 3:14:06 AM GMT- IP address: 66.249.88.175

Document e-signed by Steven M. Roth MD (smrothmd@gmail.com)
Signature Date: 2021-05-13 - 3:14:36 AM GMT - Time Source: server- IP address: 96.94.171.57

Agreement completed.
2021-05-13 - 3:14:36 AM GMT

III. REGULATORY AND FACTUAL CONTEXT

The EUAs for COVID-19 vaccines have been illegal from the start. There is and has been no *bona fide*, underlying, epidemiological emergency from COVID-19. Instead, an artificial emergency that is nothing more than a legal construct has been imposed on the population, based on a false COVID-19 death count (the result of illegal rule changes obliterating the distinction between "dying with" and "dying from" COVID-19 and changing procedures and definitions for COVID-19 death certificates) and a false COVID-19 case count (the result of extensive PCR testing deployed at amplification cycles universally agreed, even by the WHO, the CDC and Dr. Fauci, to produce false positive test results).

The false emergency and attendant psychological manipulation through incessant, prolonged, fear-based reporting of the inflated death and case counts, have culminated in a campaign to coerce the American people to accept the COVID-19 vaccines, which are untested and unproven biological agents.

The American public are being misled as to the COVID-19 vaccines on multiple levels, including *inter alia*: to believe that they are FDA-approved; to believe that they are actually and in fact "safe and effective," as opposed to federal bureaucrats with apparent undisclosed conflicts-of-interest having determined merely that there is a "reasonable basis to conclude" that they are safe and effective; that there are no risks and many benefits, whereas in fact there are many risks and few benefits, particularly for children 15 and younger; that they are standard vaccines that involve the injection of dead or attenuated virus, versus gene therapy; that they prevent infection with COVID-19, and the transmission of COVID-19 to others; and that there are no other effective alternative treatments. At the same time, the American public are being presented with countless incentives to induce their acceptance of the COVID-19 vaccines, and threats of negative consequences if they refuse them. All of this vitiates informed consent.

A, Regulatory Context

The central legal issues arise from 21 U.S. Code § 360bbb–3 (which provides the legal framework for EUAs), as informed by 21 CFR 202.1 (which relates to the advertising of prescription drugs and which requires a true statement of information relating to side effects, contraindications and effectiveness (202.1(e)), customary international law, 21 CFR Parts 50 and 312, and 45 CFR 46 (which describes the requirements for human experimentation).

(1) 21 CFR 202.1

21 CFR 202.1(e)(3) states specifically that "**If any part or theme of the advertisement would make the advertisement false or misleading by reason of the omission of appropriate qualification or pertinent information, that part or theme shall include the appropriate qualification or pertinent information**". Advertising is categorically prohibited for an experimental vaccine that is not yet approved, which is a more stringent standard than for prescription drugs. However, as Dr. David McCullough, the most cited and studied medical scholar on Covid-19 recently pointed out, there is a formal and overt collusion between Government stakeholders with a financial interest in the experimental vaccines, and the media, to actually suppress negative information about the experimental vaccines, rather than disclose the information, as any law relating to informed consent would mandate. Dr. McCullough describes a 'whitewash of historic proportions':

> *"So I think this was effectively a scrubbing, like we've seen elsewhere. There is a **Trusted News Initiative**, which is very important for Americans to understand, this was announced Dec. 10, and this is a coalition of all the major media and government stakeholders in vaccination, where they are not going to allow any negative information about vaccines to get into the popular media because they're concerned about vaccine hesitancy, that if*

Americans got any type of fair, balanced coverage on safety events then they simply would not come forward and get the vaccine" (emphasis added).

The very concept of a consortium of Government stakeholders and major news outlets suppressing information is a gross violation of the legal principles further set forth in 21 CFR 202.1(e)(5), which states in relevant part:

(5) "True statement" of information. ***An advertisement does not satisfy the requirement that it present a "true statement" of information in brief summary relating to side effects, contraindications, and effectiveness if:***

(i) It is false or misleading with respect to side effects, contraindications, or effectiveness; or

(ii) It fails to present a fair balance between information relating to side effects and contraindications and information relating to effectiveness of the drug…(emphasis added).

Dr. McCullough identifies financial stakeholders as including: "…the stakeholders – the CDC, NIH, FDA, Big Pharma, World Health Organization, Gates Foundation – they have made a commitment to mass vaccination"

Dr. McCullough further identifies the colluding news outlets as including:

"The partners signed onto the Trusted News Initiative to date are: Associated Press, AFP; BBC, CBC/Radio-Canada, European Broadcasting Union (EBU), Facebook, Financial Times, First Draft, Google/YouTube, The Hindu, Microsoft, Reuters, Reuters Institute for the Study of Journalism, Twitter, The Washington Post. The New York Times has also participated in the past."

This type of formal collusion in order to suppress information necessary for basic informed consent is antithetical to the protective purposes of 21 U.S. Code § 360bbb–3, 45 CFR 46 and 21 CFR 202.1. The very agencies and officials responsible for protecting the American public from these experimental COVID-19 vaccines are deeply conflicted by substantial financial incentives, and are they are pushing to provide what amounts to costly retail units of experimental agents to children who have no statistical risk to COVID-19, and do not need these interventions. Dr. McCullough suggests there is an incestuous relationship between these agencies and the pharmaceutical industry which causes the regulators to ignore safety issues:

"A lot of Americans don't understand how tight these stakeholders are. Keep in mind the NIH [National Institutes of Health] is a co-owner of the Moderna patent, so they have a vested financial interest in keeping these vaccines going," he said.

More than 15 months into the COVID nightmare, the evidence is beginning to suggest the U.S. government colluded from the outset with the Gates Foundation, CDC, FDA, the United Nations World Health Organization and Big Pharma to make the vaccines the central focus of the global COVID response effort. They started promoting the vaccines before they were even out of clinical trials, McCullough said, which is against U.S. regulatory law" (emphasis added).

(2) Customary International Law; 21 CFR Chapter 1, Part 50, Protection of Human Subjects, § 50.1 et seq., 21 CFR Part 312, Investigational New Drug Application, 45 CFR Part 46, Protection of Human Subjects

Customary international law applies directly to the United States and its agencies and instrumentalities. It is well established that customary international law includes a norm that prohibits non-consensual human medical experimentation. Abdullahi v. Pfizer, 562 F.3d 163, 174-188 (2nd Cir. 2009). In August 1947, an International Military Tribunal ("IMT") sitting in Nuremberg, Germany convicted 15 Nazi doctors for crimes against humanity for conducting medical experiments without the consent of their subjects. "Among the nonconsensual experiments that the tribunal cited as a basis for their convictions were **the testing of drugs for immunization against malaria,**

epidemic jaundice, typhus, smallpox and cholera." Id. at 178 (quoting United States v. Brandt, 2 Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10, 181-182 (1949) (emphasis added). The Nuremberg Code was created as part of the IMT's judgment, and its first principle is that **"[t]he voluntary consent of the human subject is absolutely essential."** Id. at 179. It contains other principles relevant here, for example that "[t]he experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random or unnecessary" (Principle 2), and "[t]he experiment should be [ ] designed and based on the results of animal experimentation" (Principle 3), and "[t]he degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem" (Principle 6).

The Nuremberg Code has been adopted and amplified by numerous international declarations and agreements, including the World Medical Association's Declaration of Helsinki, the guidelines authored by the Council for International Organizations of Medical Services, Art. 7 of the International Covenant on Civil and Political Rights, International Covenants on Human Rights, the Universal Declaration on Bioethics and Human Rights, and others.

"The history of the norm in United States law demonstrates it has been firmly embedded for more than 45 years and [ ] its validity has never been seriously questioned by any court." Id. at 182. Federal Regulations relating to the protection and informed consent of human subjects implement this norm, and are binding legal obligations.

45 CFR § 46.401 et seq., applies to "all research involving children as subjects, conducted or supported by [DHHS]." § 46.405 states:

> *HHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that holds out the prospect of direct benefit for the individual subject, or by a monitoring procedure that is likely to contribute to the subject's well-being, only if the IRB finds that:*
>
> *(a) The risk is justified by the anticipated benefit to the subjects;*
>
> *(b) The relation of the anticipated benefit to the risk is at least as favorable to the subjects as that presented by available alternative approaches; and*
>
> *(c) Adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians, as set forth in § 46.408.*

It is entirely reasonable to posit that the U.S. public health establishment would in fact design, fund, supervise and implement a non-consensual human medical experiment, in conjunction with private sector actors. It has done so in the past. On October 1, 2010, President Obama apologized to the Guatemalan government and people for a program of non-consensual human experimentation that had been funded and approved by the U.S. Public Health Service ("PHS") and implemented on the ground by a PHS doctor employed for this purpose by private institutions but reporting to supervisors including PHS doctors. The evidence was suppressed and remained buried until discovered by a private researcher in 2010. A presidential commission investigated and found that in fact thousands of Guatemalans, including orphans, insane asylum patients, prisoners and military conscripts, had been intentionally exposed to syphilis, gonorrhea and other pathogens in furtherance of experiments on the use of penicillin as a prophylaxis.

On May 16, 1997, President Clinton apologized to the African-American community for the "Tuskegee Study of Untreated Syphilis in the Negro Male", a non-consensual human medical experiment funded, organized and implemented by the PHS, again with important private sector participation. This was the longest non-therapeutic, non-consensual experiment on human beings in the history of public health, run by the PHS, spanning 40 years from 1932 until its exposure by a whistleblower in 1972. The purpose of the study was to observe the effects of untreated syphilis in black men and their family members. There are numerous other examples, too many for inclusion in this Motion.

That children are going to be used as experimental test subjects (guinea pigs) in medical experimentation using the COVID-19 vaccines is undeniable. The Texas State Senate heard sworn testimony on May 6, 2021 from Dr. Angelina Farella, a pediatrician who has given tens of thousands of vaccinations in her office. She testified:

Dr. Farella: "I have given tens of thousands of vaccinations in my career. I am very pro-vax actually except when it comes to this covid vaccine … We are currently allowing children 16, 17 years old to get this vaccine, and they were never studied in this

trial… Never before in history have we given medications that were not FDA approved to people who were not initially studied in the trial. There were no trial patients under the age of 18… They're extrapolating the data from adults down to children and adolescents. This is not acceptable. Children are not little adults. … Children have 99.997% survivability from the covid. Let me repeat that for you all to understand: 99.997%."

Senator Hall: "Has there been another vaccine that had the high incidents of serious hospitalizations and deaths that this vaccine is now showing?

Dr. Farella: "Not to this extent. Not even close."

Sen. Hall: "Any other vaccine would have been pulled from the market?"

Dr. Farella: "Absolutely."

Sen. Hall: "Have you seen any other vaccine that was put out for the public that skipped the animal tests?"

Dr. Farella: "Never before. Especially for children."

Sen. Hall: "…Folks I think that's important to understand here, that what we're talking about is the American people … **this is the test program.**"

(3) 21 U.S. Code § 360bbb–3(b), (c) and (e)

21 U.S. Code § 360bbb–3 governs the authorization of the use of medical products in emergencies. Plaintiffs contend that the DHHS Secretary violated § 360bbb–3(b) when he declared an emergency, and therefore the EUAs are invalid. Further, Plaintiffs contend that the Secretary violated § 360bbb–3(c), when he issued the EUAs for the COVID-19 vaccines, and therefore, on that basis additionally, the EUAs are invalid. In this Motion, Plaintiffs ask only that the *status quo* be maintained - that the EUAs not permit the use of the COVID-19 vaccines in the children under the age of 16, and that no further expansion of the EUAs to children under the age of 16 be granted until after trial.

§ 360bbb–3(b) authorizes the DHHS Secretary to declare an emergency after making one or more of certain findings, which declaration is the necessary predicate for the issuance of any EUA, as follows:

(b) Declaration of emergency or threat justifying emergency authorized use

(1) In general *The Secretary may make a declaration that the circumstances exist justifying the authorization under this subsection for a product on the basis of—*

(A) *a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents;*

(B) *a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces, including personnel operating under the authority of title 10 or title 50, of attack with—*

(i) *a biological, chemical, radiological, or nuclear agent or agents; or*

(ii) *an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to United States military forces;*

(C) ***a determination by the Secretary that there is a public health emergency, or a significant potential for a public health***

> ***emergency, that affects, or has a significant potential to affect, national security or the health and security of United States citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents;*** *or*
>
> **(D)** *the identification of a material threat pursuant to section 319F–2 of the Public Health Service Act [42 U.S.C. 247d–6b] sufficient to affect national security or the health and security of United States citizens living abroad.*

The DHHS Secretary declared an emergency pursuant to § 360bbb–3(b)(I)(C), after making the relevant finding. Plaintiffs aver and the facts set forth below demonstrate that the finding was made in error, without any real justification, and as such the EUAs for the COVID-19 vaccines are invalid.

§ 360bbb–3(c) sets forth the standards applicable to the issuance of any EUA, as follows:

> ***(c) Criteria for issuance of authorization*** *The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances described in subsection (b)(1)), the Secretary concludes—*
>
> **(1)** *that an agent referred to in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;*
>
> **(2)** *that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available,* ***it is reasonable to believe that****—*
>
> ***(A) the product may be effective*** *in diagnosing, treating, or preventing—*
>
> ***(i)*** *such disease or condition; or*
>
> ***(ii)*** *a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this chapter, or licensed under section 351 of the Public Health Service Act [42 U.S.C. 262], for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and*
>
> ***(B) the known and potential benefits of the product****, when used to diagnose, prevent, or treat such disease or condition****, outweigh the known and potential risks of the product****, taking into consideration the material threat posed by the agent or agents identified in a declaration under subsection (b)(1)(D), if applicable;*
>
> **(3)** ***that there is no adequate, approved, and available alternative*** *to the product for diagnosing, preventing, or treating such disease or condition;*
>
> **(4)** *in the case of a determination described in subsection (b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and*
>
> **(5)** *that such other criteria as the Secretary may by regulation prescribe are satisfied.*

The balancing test required by § 360bbb–3(c)(2)(B) cannot be satisfied. Since the risk from COVID-19 to 12-15 year old children is statistically 0%, there is no real or material benefit to this age category of using these experimental vaccines. At the same time, the risks of using any untested drug are always substantial, and, in this case, the injections are already proving to be dangerous, even on the basis of the false and/or misleading statistics promulgated by DHHS.

Further, the Secretary cannot meet the requirement in § 360bbb–3(c)(3) of demonstrating that there is no adequate, approved alternative treatment. Below is a discussion of a number of treatments that are adequate and that are approved by a number of doctors. Plaintiffs contend that the word "approved," which is not otherwise defined in

the statute, should be interpreted to refer to approval by the medical community in the medical malpractice sense of "meeting the standard of care" applicable among similarly situated medical professionals. Further, Plaintiffs contend that FDA approval for alternative COVID-19 treatments have been wrongfully withheld despite strong scientific evidence that many of these "alternative" treatments are safer and more effective than the current EUA products.

Part (e) of 21 U.S. Code § 360bbb–3(e) requires, as a condition of the EUAs, that the DHHS Secretary ensure that *both* health care professionals administering EUA products and those who are treated with the EUA products are furnished with the following information, which is a minimum threshold disclosure necessary in order to ensure the informed consent of vaccine subjects:

(II) of the significant known and potential benefits and risks of the emergency use of the product, and of the extent to which such benefits and risks are unknown; and

(III) of the alternatives to the product that are available, and of their benefits and risks.

As discussed *infra*, the Secretary is not ensuring that these minimum statutory disclosures are made. In fact, the DHHS and its sub-agencies appear to be working actively to suppress information regarding the potential dangers of these injections and alternative treatments, as opposed to ensuring that health care professionals and vaccine subjects have the information. At the same time, state and federal government officials are threatening the American public with a range of penalties should they decline the vaccine, and incentives should they accept it. All of this vitiates informed consent, especially as to children under 16 years of age. Expanding the EUAs will only compound the harm.

B. Factual Context

(1) No Real Emergency

In approximately January of 2020, the media began creating and circulating news stories that seemed designed to generate panic, regarding a new and deadly disease that could kill us all. This was odd given that the estimated fatality rate at the time was between 2-4%. By contrast, tuberculosis has a fatality rate of approximately 10%, the original SARS virus had a fatality rate of approximately 9%, and the MERS virus had a fatality rate of approximately 30% - all had similar rates of spread.

The actual COVID-19 statistics present a very different picture than the one painted by the media - a fatality rate of 0.2% globally, which drops to 0.03% for persons under age 70, which is comparable to the yearly flu. Further, statistically, the fatality risk is limited to the elderly population.

Data from defendants confirm that there is no outsized nor unmanageable situation regarding COVID-19. The defendants admit the following through their public government portal: HealthData and the COVID-19 Community Profile Report:

USA Total:

- ER visits – 1.2% due to COVID (26 states <1%, highest is 3.1%)
- inpatients -- 4% due to COVID (Light Green -- Low)
- ICU patients -- 9% due to COVID (Yellow -- Moderate)
- total hospitalizations -- 46 states ≤ 15 per 100,000 and 49 states ≤ 20
- "cases" – 9 per 100,000 per day

The actual COVID-19 fatality numbers are vastly lower than those reported. On March 24, 2020, the DHHS changed the rules applicable to coroners and others responsible for producing death certificates and making "cause of death" determinations - **exclusively for COVID-19**. The rule change states that "COVID-19 should be reported on the death certificate for all decedents where the disease caused *or is assumed to have caused or contributed* to death." Many doctors have attested that permitting such imprecision on a legal document (death certificate) has never happened before in modern medicine. This results in reporting of deaths as caused by COVID-19, even when in fact deaths were imminent and inevitable for other pre-existing reasons and caused by comorbidities. In other words, people dying **with** COVID-9 are being reported as dying **from** COVID-19. DHHS statistics are now showing that 95% of deaths classed as "COVID-19 deaths" involve an average of four additional comorbidities. This

misattribution of the cause of death undoubtably stems from the substantial government subsidies paid to incentivize such misreporting of COVID-19 deaths.

Similarly, the actual number of COVID-19 "cases" is far lower than the reported number. The signs, symptoms and other diagnostic criteria for COVID-19 are laughably broad. Applying the criteria, countless ailments can be classed as COVID-19, especially the common cold or ordinary seasonal flu. Compounding the problem, the DHHS authorized the use of the polymerase chain reaction ("PCR") test as a diagnostic tool for COVID-19, with disastrous consequences. The PCR tests are themselves experimental products, authorized by the FDA under separate EUAs.

A PCR test can only test for the presence of a fragment of the RNA of the SARS-CoV-2 virus, and literally, by itself, cannot be used to diagnose the COVID-19 disease. The RNA fragment detected may not be intact and may be dead, in which case it cannot cause COVID-19. This is analogous to finding a car part, but not a whole car that can drive. Manufacturer inserts furnished with the PCR test products include disclaimers stating that the PCR tests should NOT be used to diagnose COVID-19. This is consistent with the warning issued by the Nobel Prize winning inventor of the PCR test that such tests are not appropriate for diagnosing disease.

Further, the way in which the PCR tests are administered guaranties an unacceptably high number of false positive results. Cycle Threshold Value ("CT value") is essentially the number of times that a sample (usually from a nasal swab) is magnified or amplified before a fragment of viral RNA is detected. The CT Value is exponential, and so a 40-cycle threshold means that the sample is magnified around a trillion times. The higher the CT Value, the less likely the detected fragment of viral RNA is intact, alive and infectious.

Virtually all scientists, including Dr. Fauci, agree that any PCR test run at a CT value of 35-cycles or greater is useless. A study funded by the French government showed that even at 35-cycles, the false positivity rate is as high as 97%. Despite this, a majority of the PCR tests for COVID-19 deployed under EUAs in the United States are run at 35-45 cycles in accordance with manufacturer instructions. Under the EUAs issued by the FDA, there is no flexibility to depart from the manufacturer's instructions and change the way in which the test is administered or interpreted.

There is, however, one GLARING exception to this standard. THE CDC HAS STATED THAT ONCE A PERSON HAS BEEN VACCINATED, AND THEN AFTER VACCINATION THAT PERSON TESTS POSITIVE FOR COVID-19 USING A PCR TEST, THE CDC WILL ONLY "COUNT" THE POSITIVE RESULT AT 28 CYCLES OR LESS! Why the difference? More recently, the CDC has announced it will no longer compile and report data showing the total number of vaccinated who subsequently contract COVID-19: "[We are] transitioning to reporting only patients with COVID-19 vaccine breakthrough infection that were hospitalized or died to help maximize the quality of the data collected." There appears to be an agenda to protect the myths about the vaccine, rather than the public.

Ultimately, there is simply no objective evidence showing a public health emergency exists. On a national level, Plaintiffs are unaware of any intercounty requests for aid, or legitimately overwhelmed community health resources/hospitals. Plaintiffs also point out that the Cambridge dictionary defines the word emergency to mean, "something dangerous or serious, such as an accident, that happens suddenly or unexpectedly and needs fast action in order to avoid harmful results." COVID-19 has been with us for well over a year, and we know far more about the disease than we did at the outset. Most importantly, we can identify with precision the age segment of the population that is at risk, and it decidedly is NOT children under 16 who have a statistically zero percent chance of death from COVID-19. If there is no emergency, then the EUAs should be invalidated entirely though, for purposes of this Motion, Plaintiffs only seek injunctive relief against the expansion of the EUAs to children under 16.

(2) Dangers of COVID-19 for Children Under 16 vs. Benefits/Dangers of Experimental Injection

COVID-19 presents no threat to children under 16 statistically. The United States census counted more than 72 million people age 0-17. As of 5/5/2021, according to the CDC, there have been only 282 deaths WITH (not from) COVID-19 in children 0-17, representing 0.000392% of that age demographic. 179 of those deaths appear to have involved influenza, and likely would be characterized as influenza deaths rather than COVID-19 deaths under standard "cause of death" reporting rules. These statistics alone make it impossible for the DHHS Secretary to satisfy the balancing test required by §

360bbb–3(c)(2)(B), as a condition to issuing EUAs for these experimental vaccines. Since the risk from COVID-19 to 12- to 15-year-old children is statistically 0%, there is no real or material benefit to this age category of using these experimental vaccines.

There is NO public interest in subjecting children to experimental vaccination programs, in order to protect them from a disease that simply does not threaten them. Children are inherently incapable of providing informed consent. Neither the children, nor their parents, can possibly give informed consent to these experimental vaccines, since the DHHS Secretary has failed to make the even the minimum statutory disclosures regarding risks and alternative treatments, and at the same time they are targeted and pressured with incentives and penalties.

Given that there is no risk to children from the COVID-19 disease, ***any*** risk from the COVID-19 vaccines is too much under the law. What risks do these experimental vaccines carry? Scientists and healthcare professionals all over the world are sounding the alarm and frantically appealing to the FDA to halt the vaccines. They have made innumerable public statements, but for the purposes of this pleading we attach one recent, illustrative and dramatic statement. 57 top scientists and doctors, are calling for an immediate end to all vaccine COVID-19 programs. Other physician-scientist groups have made similar calls, among them: Canadian Physicians, Israeli People's Committee, Frontline COVID-19 Critical Care Alliance, World Doctors Alliance, Doctors 4 Covid Ethics, America's Frontline Doctors. These are healthcare professionals in the field who are seeing the catastrophic and deadly results of the rushed vaccines, and reputed Professors of Science and Medicine, including the physician with the greatest number of COVID-19 scientific citations worldwide. We attach the authors, institutions and abstract here for the Court to understand the severity and urgency of the situation. They accuse the government of deviating from long-standing policy to protect the public. In the past, government has halted vaccine trials based on a tiny fraction – far less than 1% - of the number of unexplained deaths already recorded in these ongoing COVID-19 vaccine trials! The scientists all agree that the spike protein (produced by the vaccines) *causes disease even without the virus*, which has motivated them to lend their imprimatur to, and risk their reputation and standing on, the following statement:

57 ***Top Scientists and Doctors: Stop All Covid Vaccinations.***

*Roxana Bruno[1], Peter McCullough[2], Teresa Forcades i Vila[3], Alexandra Henrion-Caude[4], Teresa García-Gasca[5], Galina P. Zaitzeva[6], Sally Priester[7], María J. Martínez Albarracín[8], Alejandro Sousa-Escandon[9], Fernando López Mirones[10], Bartomeu Payeras Cifre[11], Almudena Zaragoza Velilla[10], Leopoldo M. Borini[1], Mario Mas[1], Ramiro Salazar[1], Edgardo Schinder[1], Eduardo A Yahbes[1], Marcela Witt[1], Mariana Salmeron[1], Patricia Fernández[1], Miriam M. Marchesini[1], Alberto J. Kajihara[1], Marisol V. de la Riva[1], Patricia J. Chimeno[1], Paola A. Grellet[1], Matelda Lisdero[1], Pamela Mas[1], Abelardo J. Gatica Baudo[12], Elisabeth Retamoza[12], Oscar Botta[13], Chinda C. Brandolino[13], Javier Sciuto[14], Mario Cabrera Avivar[14], Mauricio Castillo[15], Patricio Villarroel[15], Emilia P. Poblete Rojas[15], Bárbara Aguayo[15], Dan I. Macías Flores[15], Jose V. Rossell[16], Julio C. Sarmiento[17], Victor Andrade-Sotomayor[17], Wilfredo R. Stokes Baltazar[18], Virna Cedeño Escobar[19], Ulises Arrúa[20], Atilio Farina del Río[21], Tatiana Campos Esquivel[22], Patricia Callisperis[23], María Eugenia Barrientos[24], Karina Acevedo-Whitehouse[5],**

[1]*Epidemiólogos Argentinos Metadisciplinarios. República Argentina.*

[2]*Baylor University Medical Center. Dallas, Texas, USA.*

[3]*Monestir de Sant Benet de Montserrat, Montserrat, Spain*

[4]*INSERM U781 Hôpital Necker-Enfants Malades, Université Paris Descartes-Sorbonne Cité, Institut Imagine, Paris, France.*

[5]*School of Natural Sciences. Autonomous University of Querétaro, Querétaro, Mexico.*

[6]*Retired Professor of Medical Immunology. Universidad de Guadalajara, Jalisco, Mexico.*

[7]*Médicos por la Verdad Puerto Rico. Ashford Medical Center. San Juan, Puerto Rico.*

[8]*Retired Professor of Clinical Diagnostic Processes. University of Murcia, Murcia, Spain*

[9]*Urologist Hospital Comarcal de Monforte, University of Santiago de Compostela, Spain.*
[10]*Biólogos por la Verdad, Spain.*
[11]*Retired Biologist. University of Barcelona. Specialized in Microbiology. Barcelona, Spain.*
[12]*Center for Integrative Medicine MICAEL (Medicina Integrativa Centro Antroposófico Educando en Libertad). Mendoza, República Argentina.*
[13]*Médicos por la Verdad Argentina. República Argentina.*
[14]*Médicos por la Verdad Uruguay. República Oriental del Uruguay.*
[15]*Médicos por la Libertad Chile. República de Chile.*
[16]*Physician, orthopedic specialist. República de Chile.*
[17]*Médicos por la Verdad Perú. República del Perú.*
[18]*Médicos por la Verdad Guatemala. República de Guatemala.*
[19]*Concepto Azul S.A. Ecuador.*
[20]*Médicos por la Verdad Brasil. Brasil.*
[21]*Médicos por la Verdad Paraguay.*
[22]*Médicos por la Costa Rica.*
[23]*Médicos por la Verdad Bolivia.*
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1. *Abstract*

Since the start of the COVID-19 outbreak, the race for testing new platforms designed to confer immunity against SARS-CoV-2, has been rampant and unprecedented, leading to emergency authorization of various vaccines. Despite progress on early multidrug therapy for COVID-19 patients, the current mandate is to immunize the world population as quickly as possible. The lack of thorough testing in animals prior to clinical trials, and authorization based on safety data generated during trials that lasted less than 3.5 months, raise questions regarding the safety of these vaccines. The recently identified role of SARS-CoV-2 glycoprotein Spike for inducing endothelial damage characteristic of COVID-19, even in absence of infection, is extremely relevant given that most of the authorized vaccines induce the production of Spike glycoprotein in the recipients. Given the high rate of occurrence of adverse effects, and the wide range of types of adverse effects that have been reported to date, as well as the potential for vaccine-driven disease enhancement, Th2-immunopathology, autoimmunity, and immune evasion, there is a need for a better understanding of the benefits and risks of mass vaccination, particularly in the groups that were excluded in the clinical trials. Despite calls for caution, the risks of SARS-CoV-2 vaccination have been minimized or ignored by health organizations and government authorities. We appeal to the need for a pluralistic dialogue in the context of health policies, emphasizing critical questions that require urgent answers if we wish to avoid a global erosion of public confidence in science and public health.

AFLDS medico-legal researchers have analyzed the accumulated COVID-19 data in terms of the balancing test required by § 360bbb–3(c)(2)(B), and report as follows:

1. *Government Database (Defendant) Vaccine Adverse Event Reporting System (VAERS):*

    a. *99% of all vaccine deaths this year are from COVID-19 injections (1% are from the other 100 vaccines)*

    b. *The current reported number of vaccine deaths for Q1 2021 constitutes a 12,000% -25,000% increase in vaccine deaths vs. prior years*

    c. *These statistics are based on the VAERS system*

        i. *VAERS only captures 1-10% reactions for all vaccines*
        ii. *In **ten years** (2009-2019) there were 1529 vaccine deaths. In the*

*first **four months** of 2021 there have been over 4,000.*

iii. *Reporting of many adverse events from COVID-19 vaccines are siphoned away from public VAERS into a non-public database called V-Safe which contradicts Congressional intent in creating VAERS in 1986 which was to make vaccine adverse events easily known to the public.*

2. *The Spike Proteins created by the COVID-19 vaccines are risky:*

a. *Reproductive Health: Spike proteins are in the same family as the naturally occurring syncytin-1 and syncytin-2 reproductive proteins in sperm, ova, placenta. Antibodies raised against spike protein might interact with the naturally occurring syncytin proteins, adversely affecting multiple steps in human reproduction. The manufacturers did not provide data on this subject despite knowing about this spike protein similarity on syncytin proteins for more than one year; there are now a very high number of pregnancy losses in VAERS and worldwide reports of irregular vaginal bleeding without clear explanation.*

b. *Vascular Disease: Salk researchers in collaboration with the University of San Diego, published in Circulation Research that the spike proteins themselves damage vascular cells, causing strokes or many other vascular problems. All the vaccines are causing clotting disorders (coagulopathy) in all ages. The spike proteins are known to cause clotting that the body cannot fix. Brain thrombosis, thrombocytopenia.*

c. *Autoimmune disease: The vaccines induce our cells to manufacture (virus-free) spike proteins. These spike proteins are then perceived to be foreign by the human immune system, initiating an immune response to fight them. While that is the intended therapeutic principle, it is also the case that any cell expressing spike proteins becomes a target for destruction by our own immune system. This is an auto-immune disorder and can affect virtually any organ in the body. It is likely that some proportion of spike protein will become permanently fused to long-lived human proteins and this will prime the body for prolonged autoimmune diseases. Autoimmune diseases can take years to show symptoms and many scientists are alarmed at giving young people such a trigger for possible autoimmune disease.*

d. *Spike proteins directly cause disease: It is clear that spike proteins are not simple, passive structures which the virus uses to attach itself to cells. The spike protein is itself biologically active, even without the virus and these bind to our cells even more tightly causing harm to endothelial cells which are throughout the entire human body, in blood tissue, in lung tissue. The spike protein, being "fusogenic", promotes cells to adhere to one another, initiating blood coagulation – including in the brain. Spike proteins also cross the blood-brain-barrier, a sacrosanct space in medicine. This has never been done before in a vaccine and the neurological effects are unknown.*

e. *Effect on the young: The vaccines are more deadly or harmful to the young than the virus, and that is excluding the unknown future effects on fertility, clotting, and autoimmune disease. There is a statistically zero chance of death from SARS-CoV-2 under age 18 according to the CDC but there are reports of heart inflammation in young men and at least one documented fatal heart attack of a healthy 15-year old boy in Colorado two days after his Pfizer shot. The vaccines induce the cells of the recipient to manufacture trillions of spike proteins with the pathology described above. Because immune responses in the young and healthy are more vigorous than those in the old, paradoxically, the vaccines may thereby induce, in the very people least in need of assistance, a very strong immune response, including those which can damage their own cells and tissues as well as by stimulating blood coagulation.*

f. *Chronic Disease: Healthy children whose birthright is decades of healthy life will instead face premature death or decades of chronic disease. We cannot say what percentage will be affected with antibody dependent enhancement, neurological disorders, autoimmune disease and reproductive problems, but it is a virtual certainty that this will occur.*

g. Unknown Effects: *worldwide there are unexpectedly higher rates of death after receiving the vaccine. Additionally, prior coronavirus and similar vaccines caused a phenomenon known as Antibody Dependent Enhancement (ADE) which is a paradoxically worse disease typically causing death or critical illness when the child or animal later encountered the virus in the wild. ADE is discovered during long term animal studies, and thus it is still an unknown risk.*

h. Effect on society: *scientists are concerned that universal inoculation may create more virulent strains. This has been observed with Marek's Disease in chickens. Due to vaccinating a large number of chickens who were not at risk of death, now all chickens must be vaccinated or they will die from a virus that was nonlethal prior to widespread vaccination. It is a serious concern that our current vaccination policy, vaccinating everyone instead of those at risk, will over time, exert the same evolutionary pressure toward more highly virulent strains.*

3. *Differences Between COVID Injections and Prior Vaccine Programs:*

a. Extreme Danger: *Based only upon the numbers reported to VAERS, these vaccines should have been pulled off the market almost immediately. "A typical new drug at about five deaths, unexplained death, we get a black-box warning, your listeners would see it on TV, saying it may cause death. And then at about 50 deaths it's pulled off the market." In 1976 during the Swine Flu pandemic, the USA attempted to vaccinate 55 million Americans but when the shot caused 25 deaths, the program was pulled. The flu shot causes 20-30 deaths a year out of 195 million and there are now over 4,000 deaths out of about 100 million COVID-19 shots.*

b. Collusion to Censor: *The Associated Press, AFP; BBC, CBC/Radio-Canada, European Broadcasting Union (EBU), Facebook, Financial Times, First Draft, Google/YouTube, The Hindu, Microsoft, Reuters, Reuters Institute for the Study of Journalism, Twitter, The Washington Post, The New York Times all participate in the "Trusted News Initiative" which has agreed to not allow any news critical of the shots. A Judge would not have to agree with one side or the other to recognize that s/he is likely not hearing the whole story when such an overwhelming majority of media/tech agree with their competitors on what is newsworthy.*

c. Whistle Blowers: *There are innumerable reports on social media of individuals and groups of physicians and nurses coming forward reporting what they are directly observing. We must take such reports extremely seriously given the enormous personal cost to persons reporting.*

i. *Dr. Charles Hoffe who defied a gag order on Moderna*
ii. *Dr. Shucharit Bhakdi who predicted the blood clotting problems*
iii. *Dr. James Todaro & The Lancet retraction*
iv. *Dr. David Brownstein who was cited by the FTC for using vitamins*
v. *Dr. Eric Nepute who was cited by the FTC for using Vitamin D*
vi. *Dr. Pierre Kory who was ridiculed for using ivermectin*
vii. *Dr. Joseph Mercola a victim of aggressive threats and cyberwarfare*
viii. *Frontline COVID-19 Critical Care Alliance*
ix. *America's Frontline Doctors*
x. *World Doctor Alliance*
xi. *The Great Barrington Declaration*
xii. *Pandemics Data and Analysis*
xiii. *Doctors 4 Covid Ethics*

d. Conflict of interest: *Consider that the J&J vaccine was paused for six clots but more than 4000 deaths due to Pfizer and Moderna has not resulted in a government pause. Note that the NIH is a co-owner of the Moderna patent. Note that Moderna and Pfizer (unlike J&J) plan to require an "update" once or twice annually.*

There are several factors that reduce any purported benefit of the COVID-19 vaccines. First, it is important to note that the Pfizer and Moderna EUA COVID-19

experimental injections were only shown to reduce symptoms – not block transmission. For over a year now, these Defendants and state-level public health authorities have told the American public that SARS-CoV-2 can be spread by people who have none of the symptoms of COVID-19, therefore Americans must mask themselves, and submit to innumerable lockdowns and restrictions, even though they are not manifestly sick. If that is the case, and these officials were not lying to the public, and asymptomatic spread is real, then what is the benefit of a vaccine that merely reduces symptoms? There isn't any.

Secondly, it appears that these Defendants either did lie about asymptomatic spread, or were simply wrong about the science. The theory of asymptomatic transmission - used as the justification for the lockdown and masking of the healthy - was based *solely* upon mathematical modeling. This theory had no actual study participants, and no peer review. The authors made the unfounded assumption that asymptomatic persons were "75% as infectious" as symptomatic persons. But in the real world, healthy false positives turned out to be merely healthy, and were never shown to be "asymptomatic" carriers of anything. Studies have shown that PCR test-positive asymptomatic individuals do not induce clinical COVID-19 disease, not even in a family member with whom they share a home and extended proximity. An enormous study of nearly ten million people in Wuhan, China showed that asymptomatic individuals testing positive for COVID-19 **never** infected others. Since asymptomatic individuals do not spread COVID-19, they do not need to be vaccinated.

(3) Lack of Informed Consent

Around the nation it appears that the requirements for informed consent are being completely ignored by our public health system and particularly by self-interested DHHS officials. Throughout the DHHS we see the use of the "safe and effective" moniker to describe these unapproved injections. The fact of the matter is that if the manufacturers of the injections were saying these things they would very likely be breaking the law.

As noted above, 21 U.S. Code § 360bbb–3 requires truly informed consent be given to anyone that is being administered these injections. Because these biological agents are still being studied it is only proper to call them experimental, and so 45 CFR 46 also applies, and requires even more in the way of informed consent. The studies on these injections **ABSOLUTELY DO NOT SCIENTIFICALLY CONCLUDE THAT THEY ARE "SAFE AND EFFECTIVE"**. Rather, the EUAs themselves talk extensively about demographics that have not had any real testing and where administration of the injections would thus be completely experimental. Children under 16 are amongst these demographics.

In addition, comments made by pharmaceutical executives are misleading to the public. In promoting their efforts to expand the EUA to kids they cite the reason that the vaccine has already been given safely to hundreds of millions of people. This is false and misleading in two ways. First, medically speaking, children are not simply short adults. Their organs are still developing, and in addition those organs must function perfectly for many decades ahead of them. Secondly, the scientific harms are long term (autoimmune, reproductive, neurologic) and thus it is wholly irrelevant how *many* persons have received the vaccine, rather the *duration* of the research is what is determinative.

Pursuant to 45 CFR 46, experimentation on children gives rise to a heightened duty of protection. Rather than ethically ensuring that they are providing truly informed consent before experimenting on children, the Defendants are doubling down on the safe and effective moniker and want to expand experimenting on children without them or their parents even realizing that it is happening!

Despite the fact that non-consensual medical experimentation on children constitutes crimes against humanity under international law, our DHHS seems to be intent on both hiding the fact that these injections are literally experimental on children, and actually supporting state and private sector actors in their efforts to coerce individuals into unknowingly participating.

Further exacerbating this already concerning lack of informed consent for those receiving the COVID injections is the potential exposure of those who did not consent at all to receiving the vaccine. Page 67 of the Pfizer EUA application describes the possibility of exposure of unvaccinated, by the vaccinated, through inhalation or skin contact. Pursuant to the referenced document, each person getting the experimental shot had to consent to the possibility of exposing pregnant women through inhalation or skin contact (pharmaceutical companies can only disclose actual, not purely speculative, risks). According to the document, a reportable safety event occurred if:

A female is found to be pregnant while being exposed or having been exposed to study intervention due to environmental exposure. Below are examples of environmental exposure during pregnancy:

A female family member or healthcare provider reports that she is pregnant after having been exposed to the study intervention by inhalation or skin contact.

As the vaccines have been rolled out, there are worldwide reports of irregular and often very heavy vaginal bleeding in the unvaccinated who are near the vaccinated, even in post-menopausal women. These public reports are scrubbed from the internet rapidly, however plaintiff AFLDS has also received innumerable emails from around the world with the same reports. It is well documented that the vaccinated have excessive bleeding and clotting disorders including vaginal bleeding, miscarriages, gastrointestinal bleeding and ITP. Given that there is now the real-world observation of what appears to be transmission of something from vaccinated to unvaccinated adults, we simply do not know what will happen to unvaccinated children sitting next to vaccinated children for eight hours/day.

"Self-disseminating vaccines" is not a science fiction concept, rather it has been a research subject for years if not decades. The reportable safety event from the Pfizer application suggests that this type of vaccine is now a reality. Self-disseminating vaccines are the most literal of violation of informed consent imaginable, and any expansion of the EUA to children under the age of 16 puts unvaccinated children at risk without meeting the informed consent requirements of either 21 U.S. Code § 360bbb–3 or 45 C.F.R. 46.

The legally required heightened levels of informed consent are not being obtained, and the necessary precautions for studies on children are simply not being considered. The requested TRO is necessary to ensure the Plaintiffs are not subjected to further public coercion to partake in this illegal experiment.

(4) Suppression of Alternative Treatments & Conflicts of Interest

Despite the misinformation being disseminated in the press – and, at times, by the Defendants – there are numerous alternative safe and effective treatments for COVID-19. Globally and in the United States, treatments such as Ivermectin, Budesonide & Dexamethasone, convalescent plasma and monoclonal antibodies, Vitamin D, Zinc, and Azithromycin are being used to great effect. While Dr. Anthony Fauci's NIH, which happens to have a financial stake in Moderna's COVID-19 vaccine, and others may downplay these treatments, the fact is that they have been used to great effect and have even resulted in a Nobel Prize nomination.

The following alternative treatments are available for COVID-19:

1. Ivermectin: NY judicial order, Yale University, South Africa, and forty studies and India
2. HCQ effective in 238 studies worldwide including many peer reviewed in USA Detroit multicountry and doctor surveys show a majority would use
3. Budesonide
4. Dexamethasone
5. Vitamin D,
6. Zinc
7. Azithromycin
8. Convalescent plasma/monoclonal antibodies
9. Colchicine
10. Remdesivir
11. Nitazoxanide/azithromycin

While many of these treatments have been publicly maligned, they are all working in various capacities around the world and are all safer than the COVID-19 injections. The highly publicized attacks on early treatments seem to be done in bad faith in many instances. For example, one study on HCQ overdosed study participants with 2.5x lethal amounts of the drug and then reported the deaths as though they were not a result of the 2.5x lethal overdose. The 27 physician-scientist authors of the study were civilly indicted

and criminally investigated and still JAMA did not retract the article.

While plaintiffs make no allegations regarding legality or illegality of any of these conflicts of interest, they are numerous, now well publicized, and may create an incentive to suppress treatments while promoting experimental COVID-19 injections. Those conflicts are shown in a document attached hereto and incorporated herein with reference as Exhibit K.

Dr. Anthony Fauci is personally responsible for approving and granting NIAID and NIH monies for research responsible for the coronavirus spike proteins, as well as patents for coronavirus spike proteins. Dr. Fauci could have focused on treatments, including treatments he previously advised were beneficial (in SARS-CoV-1). Instead, Dr. Fauci directed the NIAID, NIH, Congress and the White House to develop vaccines, including Pfizer and Moderna vaccines where he has financial and professional ties.

The NIH Director stated the following in May, 2020: "We do have some particular stake in the intellectual property behind Moderna's coronavirus vaccine." In fact, NIH and Moderna signed a contract in December, 2019 that states "mRNA coronavirus vaccine candidates are developed and jointly owned by the two parties." , And now Moderna is currently valued at $25 billion despite having no federally approved drugs on the market.

Further, on May 11, 2021, Senator Rand Paul asked Dr. Anthony Fauci under oath about the origins of SARS CoV-2 and the NIH and NIAID funding for Gain-of-Function research, and Dr. Fauci stated to the Senator and to all of Congress and to the American people stating that the NIH and NIAID did not fund Gain-of-Function (making viruses more lethal) research when in fact, he provided at least $60 million funding. The NIH and Dr. Fauci profit financially, personally and professionally while the American people suffer.

Declaration Addressing Gain-of-Function Research, Patents and Dr. Anthony S. Fauci Conflict of Interest.

The integrity of Science – including Medicine – is dependent upon individuals clearly stating when research, or funding of research they are involved with represents a potential Conflict of Interest. The definition of Conflict of Interest is simple and precise. When a person stands to benefit financially, personally, professionally, or otherwise from work they are involved with, they are expected to make it clear to everyone that the outcome(s) of their work or funding may benefit them, so that others might be aware of this potential conflict of interest and consider this information when making decisions.

Dr. Anthony Stephen Fauci is a medical doctor and director of the U.S. National Institute of Allergy and Infectious Disease (NIAID). As such his physicians Oath obligates him to put patients before himself. As NIAID Director Dr. Fauci is responsible for working with NIH, HHS, other federal agencies, Congress, and various other organizations, for the expressed purpose of addressing infectious, immunologic or allergic diseases. Never has this been more critical than today with SARS-CoV-2 and COVID-19.

Dr. Fauci has been personally responsible for approving and granting NIAID and NIH monies for Gain-of-Function research that resulted in the development of the SARS-CoV-2 Spike Protein responsible for – as of the time of this writing – 33,745,556 Americans resulting in 600,515 deaths. Not only did this funding result in the research and development of this Spike Protein and Virus (SARS-CoV-2); but it additionally resulted in the patenting of a method for manipulating viruses and their genetic code. It also resulted in the patenting of Gain-of-Function research, specifically for coronavirus spike proteins. The NIH and Dr. Fauci, through the funding of these Gain-of-Function studies and subsequent patents, profit financially, personally and professionally. The American people have suffered the consequences.

During the last 16-months Dr. Fauci could have been instrumental in funding research for the treatment of individuals with SARS-CoV-2 and COVID-19. Instead of focusing on treatments and saving lives – including treatments he previously advised were beneficial for the treatment of SARS-CoV-1; Dr. Fauci directed the focus of the NIAID, NIH, Congress and the Executive Branch on the development of vaccines including Pfizer and Moderna vaccines where he has financial and professional ties.

When asked by Senator Dr. Rand Paul earlier this week, why Dr. Fauci had approved Gain-of-Function research, including when there was a moratorium on such research, and specifically why Dr. Fauci would approve research resulting in the Gain-of-Function spike protein of SARS-CoV-2; Dr. Fauci repeatedly committed perjury by stating he had not approved Gain-of-Function research monies to Prof. Peter Daszak of

EcoHealth who then provided that money to Prof. Ralph S. Baric of the University of North Carolina, and Prof. Shi Zhengli-Li of the Wuhan Institute of Virology.

Dr. Anthony Stephen Fauci has not only violated his medical Oath, but he has violated the medical and scientific requirements to declare these Conflicts of Interest. He has violated his responsibility as Director of NIAID in so violating his Oath and not declaring these Conflicts of Interest. He has placed personal, professional and financial profit above his responsibilities and duties as a physician and as Director of NIAID. He has violated the trust of the American people and in an effort to cover up those violations of Oath and Duty he has perjured himself.

Affidavit

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and is based upon published research and published patents.

Executed on 17 May 2021.

Richard M Fleming, MD, PhD, JD

Printed name: Richard M Fleming, MD, PhD, JD

Date: 17 May 2021

Gov/Big Pharma Conflict

The vaccine is called mRNA-1273 and was developed by NIAID scientists and their collaborators at the biotechnology company Moderna, Inc., based in Cambridge, Massachusetts. The Coalition for Epidemic Preparedness Innovations (CEPI) supported the manufacturing of the vaccine candidate for the Phase 1 clinical trial.

"Finding a safe and effective vaccine to prevent infection with SARS-CoV-2 is an urgent public health priority," said NIAID Director Anthony S. Fauci, M.D. "This Phase 1 study, launched in record speed, is an important first step toward achieving that goal."[1]

To receive a share of the profit from the sale of mRNA-1273, the inventors of this product within NIAID would submit an Employee Invention Report to the NIH Office of Technology transfer. [2] Each inventor stands to receive a personal payment of up to $150k annually from the sales of mRNA-1273.[3] In addition, NIAID stands to earn millions of dollars in revenue from the sale of mRNA-1273.[4]

Moderna will pay license fee to NIAID to use its patents related to mRNA-1273 and a portion of those fees are then paid directly to the inventors within NIAID who developed those patents.[5]

NIH has produced reports which confirm that these individuals are listed as inventors.[6]

- Barney Graham, Deputy Director, NIAID Vaccine Research Center
- Kizzmekia Shanta Corbett, Scientific Lead, NIAID's Coronavirus Vaccine Program
- Michael Gordon Joyce, NIAID
- Hadi Yassine, NIAID
- Masaru Kanekiyo, NIAID
- Olubukola Abiona, NIAID

HHS awarded $483 million to accelerate development of mRNA-1273.[7] The US Government has reached a 1.525 billion deal to purchase 100 million doses of mRNA-1273.[8]

In 2013, the Autonomous Diagnostics to Enable Prevention and Therapeutics (ADEPT) program awarded grant funding to Moderna Therapeutics for the development of a new type of vaccine based on messenger RNA. The initial DARPA grant was W911NF-13-1-0417. ***The company used that technology to develop its COVID-19 vaccine, currently undergoing Phase I clinical trials in conjunction with NIH.***[9]

FDA Vaccines and Related Biological Products Advisory Committee Roster

Content current as of 4/9/21[10]

Any consideration of financial conflict of interest at the Vaccines and Related Biological Products Advisory Committee must be set against the historical backdrop of the profound financial conflicts of interest seen in the during the H1N1 pandemic ten years ago. At that time, five of the sixteen experts were found to have ties to the pharmaceutical industry. There were "calls from the British Medical Journal, to release the names of committee members and their conflicts of interest, in the interest of transparency and to monitor any possible commercial influence." That earlier "pandemic has proved profit-making for the industry, with one estimate (by JP Morgan) putting 2009 vaccine profits alone at $7-10 billion."[11]

There appear to be significant conflicts of interest today especially among committee leaders. The items reported in this memo are the results of a quick preliminary check on conflicts and are not a complete representation. Plaintiffs intend to conduct a more thorough investigation before trial.

Chair
Hana El Sahly, M.D.
Expertise: Vaccines, Infectious Diseases
Term: 06/21/2019-01/31/2022
Professor
Department of Molecular Virology and Microbiology
Department of Medicine
Section of Infectious Diseases
Baylor College of Medicine
Houston, TX 77030
hanae@bcm.edu

- Top FDA vaccine adviser recuses herself over tie to Moderna.[12]
- Associate Professor Baylor. She currently serves as the Principal Investigator of the Vaccine and Treatment Evaluation Unit at Baylor College of Medicine.[13]
- Federal database shows since 2013 $693,001.78 in general payments and $5,315,014.60 in research payments made to "Chi St. Lukes Health Baylor Med Ctr" – 6720 Bertner Ave, Houston, TX from various companies.[14]
- Dr. El Sahly was appointed as one of three lead investigators for Moderna's 30,000-person trial in July. Reuters reported that Dr. El Sahly had to recuse herself from an important committee meeting on Oct. 22, 2020.[15, 16] There are multiple citations of this. [e.g. 17, 18, 19 & 20] Ironically, there is no compensation of Dr. El Sahly reported on the openpaymentsdata.cms.gov website. This raises serious questions as to the completeness of the conflict

data reported on that site. The University of Florida Conflicts of Interest Program and the Project on Government Oversight reported conflicts of interest of Drs. El Sahly, Monto, and Chaterjee.[21, 22]

Paula Annunziato, M.D
Expertise: Industry Representative
Term: 02/01/2020-01/31/2024
Vice President and Therapeutic Area Head
Vaccines Clinical Research
Merck
North Wales, PA 19454

- Past (or current?) involvement in supervising Moderna's Covid-19 vaccine clinical trial.[23]
- Not listed in the openpaymentsdata.cms.gov website.

Acting Chair
Arnold Monto, M.D.
Thomas Francis Jr. Collegiate Professor of Public Health
Professor of Epidemiology
Department of Epidemiology University of Michigan
School of Public Health
Ann Arbor, MI 48109

- Acting chairman of the committee, Dr. Arnold Monto received $54,114 from 2013 through 2019 from vaccine contenders Sanofi, GlaxoSmithKline, Pfizer, and Shionogi, according to the database. He also received $10,657 from Novartis, which has a deal to manufacture a coronavirus vaccine.[24]
- Dr. Monto received a total of $194,254 from pharmaceutical companies.[25] The largest contributor was Seqirus, a company developing COVID vaccine in Australia.[26] The University of Florida Conflicts of Interest Program and the Project on Government Oversight reported conflicts of interest of Drs. El Sahly, Monto, and Chaterjee.[27, 28]

Archana Chatterjee, M.D., Ph.D.
Expertise: Pediatrics, Infectious Diseases
Term: 06/21/2019-01/31/2023
Dean Chicago Medical School
Vice President for Medical Affairs
Rosalind Franklin University of Medicine and Science
North Chicago, IL 60064

- A federal database shows that, in 2019, advisory committee member Dr. Archana Chatterjee, for instance, received $23,904 from Pfizer (including Pfizer International LLC), $11,738 from Merck, and $11,480 from Sanofi, each of which is in the race for a coronavirus vaccine. Since 2013, she has received more than $200,000 in consulting fees, travel and lodging, and other payments from those companies and others working on coronavirus vaccines, according to the database.[29]
- She is a professor of epidemiology at the University of Michigan, which has announced that it is partnering with pharmaceutical company, AstraZeneca on a clinical trial of a potential Covid-19 vaccine.[30]
- General payments to Dr Chaterjee total $245,810. Associated research funding totals $142,344. Largest funders include: Pfizer Inc., Merck Sharp & Dohme Corporation, Seqirus USA Inc., and AstraZeneca Pharmaceuticals.[31] The University of Florida Conflicts of Interest Program and the Project on Government Oversight reported conflicts of interest of Drs. El Sahly, Monto, and Chaterjee.[32, 33]

CAPT Amanda Cohn, M.D.
Expertise: Pediatrics, Vaccines
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Hayley Gans, M.D.
Expertise: Pediatrics, Infectious Diseases
Term: 06/21/2019-01/31/2023
Professor of Pediatrics
Department of Pediatrics
Stanford University Medical Center
Stanford, CA 94305

Holly Janes, Ph.D.
Expertise: Biostatistics
Term: 02/01/2020-01/31/2023
Associate Member
Fred Hutchinson Cancer Research Center
Vaccine and Infectious Disease Division
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Michael Kurilla, M.D., Ph.D.
Expertise: Infectious Diseases, Pathology
Term: 08/06/2018-01/31/2022
Director, Division of Clinical Innovation
National Center for Advancing Translation Sciences
National Institutes of Health
Bethesda, MD 20852
Michael.kurilla@nih.gov

Myron Levine, M.D., D.T.P.H., F.A.A.P
Expertise: Infectious Diseases
Term: 05/09/2018-01/31/2022
Simon & Bessie Grollman Distinguished Professor
Associate Dean for Global Health
Vaccinology and Infectious Diseases
Center for Vaccine Development
University of Maryland School of Medicine
Baltimore, MD 21201

- Dr. Myron Levine is associate dean for global health, vaccinology, and infectious diseases at the University of Maryland School of Medicine. The school is participating in a clinical trial of a COVID-19 vaccine being developed by Moderna and the National Institute of Allergy and Infectious Diseases.[34]

- Since 2013, for research in which Levine played a principal role, GlaxoSmithKline has paid the University of Maryland Baltimore Foundation Inc. and another institution more than $2.3 million.[35]

- Dr. Levine received general payments of $41,635 and associated research funding of $2,314,178. Dr. Levin's 2019 funding was about six times the mean of similar physicians.[36] His largest source of funding was Sanofi Pasteur who is developing a COVID vaccine as above.[37]

- UM School of Medicine's Myron M. Levine, MD, DTPH, to Receive Prestigious Lifetime Award for Five Decades of Pioneering Vaccine Research[38]

- Was on a WHO sponsored advisory group that considered feasibility of doing Covid-19 challenge studies in young, healthy volunteers. No conflict of interest declared. Also on the panel was Sheng-Li Shi from WIV.[39]

H. Cody Meissner, M.D. (aka Herman Meissner)
Expertise: Infectious Diseases
Term: 08/06/2018-01/31/2022
Professor of Pediatrics
Tufts University School of Medicine
Director, Pediatric Infectious Disease
Tufts Medical Center
Boston, MA 02111

- Tufts Children's Hospital - Division of Pediatric Infectious Disease. Head of all clinical trials for all of Tufts Children's Hospital.[40]
- Since 2013, Tufts University has been paid general payments of $13,241,677.43 by companies including Pfizer, Boston Scientific, Gyrus Acmi, Inc., Janssen Scientific, Biogen, Inc., Bayer Healthcare, Sanofi-Aventis, Genentech, Otsuka Pharmaceutical, Amgen, Inc.[41]
- Since 2013, Tufts University has been paid research payments of $34,183,399.06 by companies including Pfizer, Inc., Merck Sharp & Doh, Shire North America, Abiomed, Gilead Sciences, Inc.)[42]

Paul Offit, M.D.
Expertise: Infectious Diseases
Term: 02/01/2018-01/31/2022
Professor of Pediatrics
Division of Infectious Diseases
Abramson Research Building
The Children's Hospital of Philadelphia
Philadelphia, PA 19104

- Director of the Vaccine Education Center and an attending physician in the Division of Infectious Diseases at Children's Hospital of Philadelphia.[43]
- Since 2013, The Childrens Hospital of Philadelphia has received general payments of $4,559,116.78 and research payments of $32,013,340.94 from companies including Spark Therapeutics, United Therapeutics, Novartis Pharmaceiticals, Amgen, Inc., Pfizer, Inc.[44]
- ***Vaccine Safety: Myths and Misinformation***. No Conflict of Interest Declared.[45]
- ***The science of vaccine safety: Summary of meeting at Wellcome Trust***, Conflict of interest statement: Declaration of Competing Interest The authors declare that they have no known competing financial interests or personal

relationships that could have appeared to influence the work reported in this paper.[46]

Steven Pergam, M.D.
Expertise: Infectious Diseases
Term: 02/01/2020-01/31/2024
Medical Director
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Seattle, WA 98109
Phone: 206.667.7126
Email: spergam@fredhutch.org

- Associate Professor, Vaccine and Infectious Disease Division, Fred Hutch
- Associate Professor, Clinical Research Division, Fred Hutch[47]
- Since 2013, Dr. Pergam has received $4167.00 in general payments from Merck and Gilead and $140,311.19 research funding from Merck, Sharp and Dohme. [48]
- ***Potential conflicts of interest.*** A. L. G. reports personal fees from Abbott Molecular outside the submitted work. S. A. P. reports grant support from Global Life Technologies, Inc, participates in research trials with Chimerix, Inc, and has participated in research with Merck & Co. He is currently participating in a clinical trial sponsored by the National Institute of Allergy and Infectious Diseases (NIAID; U01-AI132004); vaccines for that trial are provided by Sanofi-Aventis.

Andrea Shane, M.D., M.P.H., M.Sc.
Expertise: Pediatric & Infectious Diseases
Term: 02/01/2018-01/31/2022
Professor of Pediatrics
Director
Division of Pediatric Infectious Diseases
Emory University School of Medicine
Atlanta, GA 30322
404-727-9880 (direct)
404-727-5642 (main)
Email: ashane@emory.edu

- Medical Director Children's Healthcare of Atlanta; Curriculum vitae[49]
- Since 2013, Egleston Childrens Hospital at Emory has received $114,148.01 in general payments and $814,977.27 in research payments from companies including Jazz Pharmaceuticals, Genmark Diagnostics, WL Gore & Associates, etc.[50]

- Since 2013, Emery University Hospital has received $44,133,351.66 in general payments and $170,711,591.68 in research payments. At the top of the research companies are ER Squibb & Sons and Pfizer, Inc.[51]
- Since 2013, Wesley Woods Center of Emory University has received $41,205.70 in general payments and $3,429,327.48 in research payments. Topping the research companies are E.R. Squibb & Sons and Janssen Research. [52]

Paul Spearman, M.D.
Expertise: Pediatric & Infectious Diseases
Term: 05/09/2018-01/31/2022
Director, Division of Infectious Diseases
Albert B. Sabin Chair in Pediatric Infectious Diseases
Cincinnati Children's Hospital
Medical Center
Professor, Department of Pediatrics
University of Cincinnati School of Medicine
Cincinnati, OH 45229
513-636-4509
Paul.spearman@cchmc.org

- Between 2013-2015, Dr. Spearman received $39,459.84 in research funding from Glaxosmithkline, LLC and Astrazenica. No data available for years 2016-2019[53]
- Since 2013, University of Cincinnati Medical Center has received $2,236,276.81 in general payments and $4,281,617.38 in research payments. Topping the list of companies on both accounts is Pfizer, Inc.[54]
- Had to be recused from some meetings because his hospital, Cincinnati Children's Hospital is also a COVID vaccine clinical trial site.[55] Dr. Spearman received $39,46060 in associated research funding primarily from Glaxosmithkline, LLC. and AstraZeneca Pharmaceuticals LP.[56]
- No conflict of interest declared in ***Warp Speed for COVID-19 Vaccines: Why are Children Stuck in Neutral?***[57]

Conclusions: Children are at substantial risk of COVID-19. Delays in starting Phase II vaccine clinical trials in children will delay our recovery from COVID-19 and unnecessarily prolong its impact upon children's health and emotional well-being, their education, and equitable access to opportunities for development and social success, as well as the country's economy. Understanding the safety, immunogenicity, and efficacy of COVID-19 vaccines in children is critical to protect children and adults. For children, a vaccine has the added benefit of returning them safely to school and extracurricular activities, and allowing them to engage with their world face-

to-face once again. Ensuring acceleration of vaccine clinical trials to warp speed for children will be critical in making this our future reality.

Geeta K. Swamy, M.D.
Expertise: Infectious Diseases
Term: 08/06/2018-01/31/2022
Senior Associate Dean
Vice Chair for Research & Faculty Development
Associate Professor, ObGyn
Department of Obstetrics & Gynecology
Division of Maternal-Fetal Medicine
Duke University
Durham, NC 27710

- Since 2013, Dr. Swamy has received general payments of $63,040.09 (Glaxosmithkline, LLC, Sanofi, Pfizer, et al) and research payments of $206,038.64 from Glaxosmithkline, LLC.[58]
- Since 2013, Duke University Hospital has received $7,599,234.72 in general payments and $40,585,472.53 in research payments from various companies. Pfizer, Inc. contributed general payments of $866,119.65 and research payments of $2,677,484.45.[59]
- Dr. Swamy had to recuse herself from committee meetings because Duke University, where she is associate vice president for research, is a clinical trial site for the Pfizer-BioNTech and AstraZeneca vaccines.[60] Dr. Swamy received payments from pharmaceutical companies totaling $63,040. Her associated research funding totaled $206,039, about three times that of similar physician. Dr. Swamy's largest sources of funding are Glaxosmithkline, LLC., Sanofi Pasteur Inc., Pfizer Inc. and Novartis Vaccine.[61]
- ***Vaccination of pregnant women with respiratory syncytial virus vaccine and protection of their infants.*** Study funded by Novavax and the Bill and Melinda Gates Foundation.[62]

Gregg Sylvester, M.D., M.P.H. ±
Expertise: Alternate Industry Representative
Term: 02/01/2020-01/31/2024
Vice President
Medical Affairs
Seqirus Inc.
Summit, NJ 07901

- Chief Medical Officer, Seqirus - Dr Gregg Sylvester has led Seqirus Medical Affairs since 2016, overseeing the global team that scientifically differentiates our vaccines by generating Real World Evidence and presenting Seqirus research to national vaccine recommending organizations.
- According to the Federal database, Seqirus USA, Inc. has made general payments in the sum of $569,854.35 and research payments in the sum of $44,159,881.83. Topping the list of receivers of general payments are **Arnold Simon Monto and Archana Chatterjee.**[63]

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[1] https://www.nih.gov/news-events/news-releases/nih-clinical-trial-investigational-vaccine-covid-19-begins
[2] https://www.ott.nih.gov/resources
[3] https://www.ott.nih.gov/royalty/information-nih-inventors
[4] https://www.ott.nih.gov/resources
[5] https://www.ott.nih.gov/royalty/information-nih-inventors
[6] https://www.icandecide.org/wp-content/uploads/2020/08/NIH-FOIA-53821-Complete-Response-RS.pdf
[7] https://investors.modernatx.com/node/8671/pdf
[8] https://investors.modernatx.com/news-releases/news-release-details/moderna-announces-supply-agreement-us-government-initial-100
[9] https://crsreports.congress.gov/product/pdf/IN/IN11446
[10] https://www.fda.gov/advisory-committees/vaccines-and-related-biological-products-advisory-committee/roster-vaccines-and-related-biological-products-advisory-committee
[11] https://www.ghwatch.org/who-watch/h1n1.html
[12] https://www.foxnews.com/us/hana-sahly-vaccine-adviser-resign-covid
[13] https://www.bcm.edu/people-search/hana-el-sahly-21052

[14] https://openpaymentsdata.cms.gov/hospital/450193
[15] https://www.bizjournals.com/boston/news/2020/09/25/fda-official-involved-in-moderna-trial-steps-aside.html
[16] https://www.reuters.com/article/healthcoronavirus-vaccines-fda/exclusive-top-adviser-steps-aside-from-fda-covid-19-vaccine-reviews-over-potential-conflict-idUSL2N2GK284
[17] https://www.statnews.com/2020/10/20/dry-technical-but-important-why-an-fda-advisory-panels-meeting-on-covid-19-vaccines-matters/
[18] https://www.nbcdfw.com/news/coronavirus/texan-involved-in-covid-19-vaccine-trials-advises-against-half-doses/2521936/
[19] https://www.pbs.org/newshour/health/watch-live-fda-advisory-committee-assesses-covid-19-vaccine-development
[20] https://www.bizjournals.com/boston/news/2020/09/25/fda-official-involved-in-moderna-trial-steps-aside.html
[21] https://coi.ufl.edu/2020/10/26/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[22] https://www.pogo.org/investigation/2020/10/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[23] https://finance.yahoo.com/news/fda-vaccine-committee-head-steps-055718018.html?guccounter=1&guce_referrer=aHR0cHM6Ly9kdWNrZHVja2dvLmNvbS8&guce_referrer_sig=AQAAALNseSAkcAU_oXgLmONgHMz3p4FUoRtEgZv6xLICKnvY8bO_SPG8CWFhdbvZULO0xruuDmy7LlRVSQuQ_uWNGkXo58YlBrjD2co7KOVu2CRMOwippqce1pb6QhT5efYM5OMtuWyPQ9K3EzyR5yg-u1v_7VSbFCdGLHIFDP1kiJhj
[24] https://openpaymentsdata.cms.gov/physician/1311454
[25] Id.
[26] https://www.seqirus.us/news/covid19-update
[27] https://coi.ufl.edu/2020/10/26/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[28] https://www.pogo.org/investigation/2020/10/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[29] https://coi.ufl.edu/2020/10/26/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[30] https://www.uofmhealth.org/news/archive/202009/u-m-conduct-clinical-trial-test-astrazeneca-covid-19-vaccine
[31] https://openpaymentsdata.cms.gov/physician/803928
[32] https://coi.ufl.edu/2020/10/26/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[33] https://www.pogo.org/investigation/2020/10/some-fda-advisors-tapped-to-review-coronavirus-vaccines-received-payments-from-vaccine-companies/
[34] https://www.medschool.umaryland.edu/profiles/Levine-Myron/
[35] https://openpaymentsdata.cms.gov/physician/1098730
[36] Id.
[37] https://www.sanofi.com/en/about-us/our-stories/sanofi-s-response-in-the-fight-against-covid-19
[38] https://www.medschool.umaryland.edu/CVD/News-and-Events/2019/UM-School-of-Medicines-Myron-M-Levine-MD-DTPH-to-Receive-Prestigious-Lifetime-Award-for-Five-Decades-of-Pioneering-Vaccine-Research.html
[39] https://pubmed.ncbi.nlm.nih.gov/32857836/
[40] https://www.tuftschildrenshospital.org/Patient-Care-Services/Departments-and-Services/Infectious-Disease/Overview
[41] https://openpaymentsdata.cms.gov/hospital/220116
[42] https://openpaymentsdata.cms.gov/hospital/220116
[43] https://www.chop.edu/doctors/offit-paul-a
[44] https://openpaymentsdata.cms.gov/hospital/393303
[45] https://pubmed.ncbi.nlm.nih.gov/32857836/
[46] https://www.sciencedirect.com/science/article/pii/S0264410X20300396?via%3Dihub
[47] https://www.fredhutch.org/en/faculty-lab-directory/pergam-steven.html
[48] https://openpaymentsdata.cms.gov/physician/44476
[49] https://fda.report/media/117726/VRBPAC-AndreaLShane-CV.pdf

[50] https://openpaymentsdata.cms.gov/hospital/113300
[51] https://openpaymentsdata.cms.gov/hospital/110010
[52] https://openpaymentsdata.cms.gov/hospital/110203
[53] https://openpaymentsdata.cms.gov/physician/1036685
[54] https://openpaymentsdata.cms.gov/hospital/360003
[55] https://www.statnews.com/2020/10/20/dry-technical-but-important-why-an-fda-advisory-panels-meeting-on-covid-19-vaccines-matters/
[56] https://openpaymentsdata.cms.gov/physician/1036685
[57] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7543330/pdf/ciaa1425.pdf
[58] https://openpaymentsdata.cms.gov/physician/292920
[59] https://openpaymentsdata.cms.gov/hospital/340030
[60] https://www.statnews.com/2020/10/20/dry-technical-but-important-why-an-fda-advisory-panels-meeting-on-covid-19-vaccines-matters/
[61] https://openpaymentsdata.cms.gov/physician/292920
[62] https://pubmed.ncbi.nlm.nih.gov/32726529/
[63] https://openpaymentsdata.cms.gov/company/100000136554

I, David Martin, PhD, declare the following:

In 2003 The United States Center for Disease Control and Prevention (CDC) saw the possibility of a gold strike. And that was the coronavirus outbreak that happened in Asia. They saw that a virus they knew could be easily manipulated as something that was very valuable and in 2003 they sought to patent it. They make sure that they controlled the proprietary rights to the disease, to the virus and to its detection and all of the measurement of it.

We know that Anthony Fauci, that Ralph Baric, that the Center for Disease Control, and the laundry list of people that wanted to take credit for inventing coronavirus were at the hub of this story. From 2003 to 2018 they controlled 100 percent of the cash flow that built the empire around the industrial complex of coronavirus. While we know that the coronavirus manipulation started with Dr Ralph Baric in 1999. Ralph Baric is the researcher at the University of North Carolina Chapel Hill who is famous for his chimeric coronavirus research. In 2002 there was a recognition that the coronavirus was seen as an exploitable mechanism. For both good and ill.

On April 25, 2003 the US Center for Disease Control filled a patent for on the coronavirus transmitted to humans.

Under 35 U.S.C. § 101 nature is prohibited from being patented. Either SARS coronavirus was manufactured, therefore making a patent on it illegal; or it was natural therefore making a patent on it illegal. If it was manufactured it was a violation of biological and chemical weapons treaties and laws. If it was natural filling a patent on it was illegal. In either outcome both are illegal.

In the spring of 2007, the CDC filed a petition with the patent office to keep their application confidential and private. They actually filed patents on not only the virus, but they also filed patents on its detection, and a kit to measure it. Because of that CDC patent they had the ability to control who was

authorized and who was not authorized to make independent inquiries into coronavirus. You cannot look at the virus, you cannot measure it, you cannot develop a test kit for it. And by ultimately receiving the patents that constrained anyone from using it, they had the means, they had the motive, and most of all they had the monetary gain from turning coronavirus from a pathogen to a profit.

Further, on May 11, 2021, Senator Rand Paul asked Dr. Anthony Fauci probing questions on the origins of SARS CoV-2 and the NIH and NIAID funding for Gain of Function research. In his response to Senator Paul, Dr. Fauci lied to the Senator and to Congress stating the NIH and NIAID did not support Gain of Function Research on this virus. The facts are that:

Anthony Fauci's DIRECT FUNDING of Gain of Function research <u>DURING THE MORATORIUM</u> was at least $60 million! We're watching people in the media talk about the $3.7 million of NIAID funds passed through EcoHealthAlliance to Wuhan while IGNORING that Wuhan Viruses and pathogenic primed Protein fragments were transported to North Carolina in 2015. This could be clear evidence of biological warfare on the United States and its citizens?

Research was supported by the National Institute of Allergy and Infectious Disease and the National Institute of Aging of the NIH under Awards U19AI109761 **($31.2 million** <u>https://govtribe.com/award/federal-grant-award/cooperative-agreement-u19ai109761</u>) and U19AI107810 **($10.563 million** <u>https://taggs.hhs.gov/Detail/AwardDetail?arg_AwardNum=U19AI107810&arg_ProgOfficeCode=104</u> (to R.S.B.). This is over $40 million that went into the amplification of making the Wuhan Virus more pathogenic to humans!

This total does not include the Biodefense series that Fauci administered for DARPA which for the period was over **$21 million** more! Fauci DIRECTLY funded **over $60 million through NIAID during the moratorium**.

I declare under penalty of perjury that the foregoing is true as reflected in public records and correct.

Executed on:

Date: 14th of May, 2021

Signature:

Dr. David E. Martin