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

15 DAVID G. DONOVAN, CHRISTOPHER)
16 J. HALL, STEPHEN C. PERSONS,)
17 THOMAS R. ARDAMICA, TERRI)
18 ADAMS, JEFF AHLERS, CODY)
19 ALMQUIST, DOUGLAS ANDERSON,)
20 CYRUS ANDERSON, JARYD JOSEPH)
21 ANDERSON, KEVIN ARENA, MIGUEL)
22 ARREDONDO, DON BAKER,)
23 DAYNNA COFFEY ARDAMICA,)
24 KORA BALES, TAIN BALLANTYNE,)
25 DANIEL BEAM, JESS BEAN, JARED)
BETKER, WILLIAM BINGHAM, LUIS)
BLANCO, LESLIE BLANK, ERIK)
BOMBARD, JAMES BOOTH,)
STEPHANIE BOSCHERT, SHANNA)
BRITTAIN, NATHANIEL BROOK, JEF)
BROOKS, BRYAN BROPHY, LUKE)
BULTENA, I.C., GEORGE CASE,)
REENE CATLOW, BENJAMIN)
CHAVEZ, NICK CHACON, MARY)
CTHERINE CHRISTIANSON, JAMES T.)
CLARK, JUSTIN CLANCY, TODD)
JACOB CLARK, MARGARET CLARK,)
BECKY COLBORN, DAVID COLE,)
MARY COLE, DODD COUTTS, JAMES)
CUEVAS, DAWNLEIGH CURTIS,)
KELLY CUSTER, D.N., LANE DAHL,)
JEFFREY DANIELS, JAMIE DAVIES,)
SCOTT DAWSON, MARY DAY,)

CASE NO. 4:21-cv-5148-TOR

**FIRST AMENDED
COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF
AND DAMAGES**

JURY DEMANDED

1 BRIANNA DELINE, DARRYN DELINE,)
 DARRYN DELINE, JAMES DEWEY,)
 DREW DIEDRICH, GREGG)
 2 DILLINGHAM, TODD DIRKS, JOHN)
 DOELL, JAKE DOMIT, STEVE)
 3 DONALDSON, KATHRYN DRAPER,)
 ERIC DYSLAND, MIKE EDDY,)
 4 ALEXANDRIA EDWARDS, MARY)
 RUTH EDWARDS, LUKE ELLIS, JESSE)
 5 ELVIK, ZACHERY ESLICK, ERIC)
 ESPINOZA, CHERYL EVOSEVICH,)
 6 ADAM FARIES, MARCUS FARIES,)
 ROBYN FARIS, THOMAS FARRIS,)
 7 JENNIFER FISH, JOHN FLANAGAN,)
 RANDY FOX, ALEJANDRO)
 8 FRAGOZO, MICHAEL FRAZIER,)
 SHARON FREELAND, DOROTHY)
 9 FRENZEL, PAUL FRENZEL, DANIEL)
 GABBARD, JENNIFER GARDINER,)
 10 JAMES GAGNON, EFREN GARCIA,)
 ERIC GARCIA, JAIME GARCIA, JOHN)
 11 GARFIELD, MATTHEW GARLICK,)
 CHRIS GEORGE, BEN GIESE, DON)
 12 GIESE, BRANDON GIMLIN, CRYSTAL)
 GIRARDOT, LEVI GLATT, HEATHER)
 13 GOLDIE, MICHAEL GOMEZ,)
 ENRIQUE GONZALES, CHRISTOPHER)
 14 GOODSSEL, MICHELLE GRADIN,)
 DELMER GRAHAM, MATTHEW)
 15 GRAY, JERRY GRIDLEY, JOSE)
 GUTIERREZ, JOSEPH HADE, LEVI)
 16 HAMBY, ERIC HANSEN, CAMERON)
 HARDY, DOUGLAS HART,)
 MARGUERITE HART, NICOLE HART,)
 17 TIM HART, VICTOR HART, CHAMISE)
 HARTMAN, PAMELA HARTSOCK,)
 18 JOSHUA HATCH, RON HAVENS,)
 KORY HEBDON, LARRY HEBERT,)
 19 KATIE HENDERSON, JOSHUA)
 HEDRICK, LEE HOLMES, JOY)
 20 HOUCHIN, MARVIN HUCK, ADAM)
 HUCKLEBERRY, ROBIN HUDSON,)
 21 JAMES IRELAND, DANIEL IRISH, J.I.,)
 ERIC ISON, ROGER IVERSON,)
 22 MIGUEL IZTAS, BRYCE JACKSON,)
 JOEL JACKSON, RAYMOND JEFFERS,)
 23 GARDINER JEFFREY, JOHNATHAN)
 JOHNS, KAMI JOHNS, TIMOTHY)
 24 JOHNS, BONNIE JOHNSON,)
 CHRISTOPHER JOHNSON, JAMES)
 25 JONES, ERIKA JORDAN, FAITH)
 KAAANAPU, MARK KAMBERG,)

1 FRANK KEARNEY, BRIAN KEELEAN,)
 2 KEITH KELLER, MAHLON KERWICK,)
 3 RONALD KNIGHT, MARK KNIGHT,)
 4 KARL KOHNE, KERRY KOST,)
 5 THOMAS KRASNER, PATRICK)
 6 KRZAN, DUSTIN LAMM, RYAN)
 7 LANSING, GIL LEAL, SHARON)
 8 LEINEN, BRIANNA LEITZ, JUSTIN)
 9 LETTAU, CARL LINDSTROM,)
 10 BRADLEY LOOSVELDT, COREY)
 11 LOW, OSCAR LUCATERO, PHILLIP)
 12 LOVE, GALE LYON, ISMAEL)
 13 MAGALLANES, MATTHEW MALIN,)
 14 JAOIRO MARTIN, DAVID MARTINEZ,)
 15 BYRON MASSIE, JAMES MATTE,)
 16 TRENT MAXWELL, SAM MCCARLEY,)
 17 JOE MEIER, NORMA MENDOZA,)
 18 CORY MEYER, KEVIN MILFORD,)
 19 DARREN MILLER, BENJAMIN)
 20 MINTER, JEREMY MIRANDA, DERIK)
 21 MOE, TRENT MOONEY, RYAN)
 22 MOORE, JOELLE MOSS, RYLEIGH)
 23 MORRISON, DANIEL MORROW,)
 24 ALLEN MORRIS, JENNIFER MULLEN-)
 25 MORRIS, PATRICK MURPHY, PAUL)
 NAEF, CELESTE NELSON, JOHNNY)
 NEER, TOBIN NEYENS, MARCO)
 NICACIO, MATT NICHOL, JEFFERY)
 NIELSON, IVAN NUNEZ, JUAN)
 NUNEZ, KELLY O'BRIEN, ANGEL)
 OJEDA, LUIS OJEDA, WILLIAM)
 OLSON, MARK OSLIN, WILLIAM)
 OWEN, PATRICK PAESCHKE,)
 STUART PALMER, NICHOLAS)
 PARKER, JEFFERY DAVID PARRISH,)
 DOUGLAS PATNODE, KEVIN)
 PATTERSON, BRANDON PATTON,)
 ZACHARY PIKE, BRIAN PISCA, JESSE)
 POTTER, KELLY POYNOR, ADRIANA)
 ELIZABETH PRESCOTT, BRYAN)
 RAEDER, AGAPITO RAMOS, KEVIN)
 REBERGER, HOWARD REED,)
 MATTHEW REED, ROBERT)
 REYNOLDS, RYAN RICHARDSON,)
 RYDER RICHARDSON, GREG)
 RICHTER, RYAN RICKENBACH,)
 RAMON RIOJAS, MARTIN RIOS)
 MAGANA, MICHAEL RIPPLINGER,)
 ERNESTO RIVAS, JUNE ROBINSON,)
 STACI ROCKEY, GREGORY)
 RODENBURG, MANUEL RODRIGUEZ,)
 LORI ROGERS, RYAN ROSENTHAL,)

1 LEISHA ROWE, MISHELLE)
 2 RUSSELL, JAMISON SADDLER, KYLE)
 3 SALTZ, WILLIAM SAMSON, OSCAR)
 4 SANCHEZ, MATTHEW SANDERS,)
 5 JOEL SAVAGE, RICK SCHIEFFER,)
 6 JACOB SCHMID, JESSICA SCHUETTE,)
 7 JOHN SCHUETTE, DEVIN SHELBY,)
 8 JEFF SHORT, STEVE SHORT,)
 9 THOMAS SICHLER, GIDGET)
 10 SILVERS, STEPHEN SIMMONS,)
 11 ANDREA SIMS, DANIEL SIMS,)
 12 EDWARD SINCLAIR, JOHN)
 13 SISEMORE, CATHY SLAPE, GABE)
 14 SLAPE, DEREK SMALL, GREGORY)
 15 SMITH, SHAD SMITH, STEPHEN)
 16 SMITH, WILLIAM SMOOT, TODD)
 17 SOMMERVILLE, KRISHEENA)
 18 STAJDUHAR, DAMON STANLEY,)
 19 KIRSTEN STANLEY, DAVID)
 20 STORACI, JOSEPH STOWMAN,)
 21 WILLIAM SULLIVAN, CARL)
 22 SUTHERLAND, APRIL SWOFFORD,)
 23 ROGER W. SZELMECZKA, LINDA)
 24 THOMAS, JAMES THORNE, ANDREW)
 25 TUCKER, DANIEL TURLINGTON,)
 AMANDA TYLER, ARIC TYLER, EVA)
 UPCHURCH, BRANDT URWIN,)
 JEFFVANDERPOL, ANGELA)
 VILLARREAL, AARON WEBBER,)
 RYAN WEIDEMAN, WILLIAM)
 WEISBERG, SHAWN D. WELKER,)
 HANS WELLENBROCK, TRENT)
 WELLNER, TRENT WELLNER, TOBIN)
 WELLS, KRISTINA WHALEN, DANIEL)
 WHARTON, NATHANIEL WICK,)
 WENDY WILDE, KEATON WILLIAMS,)
 LOGAN WILLIAMS, BRIAN)
 WILLIAMSON, NATHANIEL WILSON,)
 ROBERT WOOD, PAUL WULFF,)
 CHRISTOPHER YAROCH, TIM YORK,)
 ROBERT ZANE)

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official
 capacity as President of the United
 States of America, JENNIFER

1 GRANHOLM, in her official capacity)
 as Secretary of the UNITED STATES)
 2 DEPARTMENT OF ENERGY,)
 BRIAN VANCE in his official capacity)
 3 as Manager of the UNITED STATES)
 DEPARTMENT OF ENERGY Hanford)
 4 Site, VALERIE MCCAIN, in her)
 5 official capacity as Vit Plant Project)
 Director, BECHTEL, SCOTT SAX in)
 6 his official capacity as President and)
 Project Manager of CENTRAL)
 7 PLATEAU CLEANUP COMPANY,)
 ROBERT WILKINSON in his official)
 8 capacity as President and Program)
 9 Manager of HANFORD MISSION)
 10 INTEGRATED SOLUTIONS, LLC.,)
 DON HARDY in his official capacity as)
 11 Manager of HANFORD)
 LABORATORIES MANAGEMENT)
 12 AND INTEGRATION 222-S)
 LABORATORY MANAGER, HIRAM)
 13 SETH WHITMER in his official)
 14 capacity as President and Program)
 Manager, HPM CORPORATION,)
 15 STEVEN ASHBY in his official)
 16 capacity as Laboratory Director,)
 PACIFIC NORTHWEST NATIONAL)
 17 LABORATORY, JOHN)
 18 ESCHENBERG in his official capacity)
 19 as President and Chief Executive Officer)
 20 of WASHINGTON RIVER)
 PROTECTION SOLUTIONS,)
 21 Defendants.)
 22)

INTRODUCTION

1. Executive Order 14042, as related to federal contractor workforce, has been

1 enjoined under a nationwide injunction. See *Georgia, et al., v. Joseph R. Biden, et al.*,
2 (S.D. Ga. Nov. 30, 2021), hereinafter *Georgia v. Biden*.

3 2. The 11th Circuit Court of Appeals has continued the injunction issued in
4 *Georgia v. Biden* in place, pending briefing, argument and disposition by that Circuit
5 Court.
6

7 3. This action seeks an Order from this Court, declaring that Executive Order
8 14042 exceeds President Joseph R. Biden’s authority under FPASA and simultaneously
9 seeks an order enjoining Defendants Valerie McCain, Scott Sax, Robert Wilkinson, Don
10 Hardy, Hiram Seth Whitmer, Steven Ashby, John Eschenberg (“Contractor-
11 Defendants”) and Defendant Vance from enforcing Executive Order 14042, as related
12 to each Defendant’s respective workforce, while Executive Order 14042 remains
13 enjoined by *Georgia v. Biden*, the 11th Circuit Court of Appeals or any other court of
14 competent jurisdiction.
15
16

17 4. Most or all of Contractor-Defendants have paused enforcement of the COVID-
18 19 vaccine workplace requirement of executive Order 14042 pursuant to the nationwide
20 injunction, and this matter seeks a declaration from this court that no enforcement of
21 Executive Order 14042 by the Contractor-Defendants may take place so long as a
22 nationwide injunction remains in place.
23

24 5. This action also seeks an order from this Court, declaring that Executive Order
25 14043 exceeds President Joseph R. Biden’s authority and seeks to enjoin Defendant

1 Vance from enforcement of Executive Order 14043 against the federal workforce
2 employed at the United States Department of Energy’s (“DOE”) Hanford Site.

3 6. The Supreme Court of the United States of America stated last week, “[a]
4 vaccination, after all, ‘cannot be undone at the end of the workday.’” *National*
5 *Federation of Independent Business, et al., v. Department of Labor, Occupation Safety*
6 *and Health Administration, et al.*, 595 U.S. ____ (2022) (*per curiam*) (slip op., at 7) citing
7 *In re MCP No. 165*, 20 F. 4th, at 274 (Sutton, C. J., dissenting) granting a Stay on the
8 implementation of the Occupational Health and Safety Administration’s Emergency
9 Temporary Standard, 86 Fed. Reg. 61402 (requiring COVID-19 vaccination for
10 employees of employers with 100 employees or more).

11 7. The opinion of the Supreme Court further stated: “We expect Congress to
12 speak clearly when authorizing an agency to exercise powers of vast economic and
13 political significance.” *Id.* at 7 citing *Alabama Assn. of Realtors v. Department of*
14 *Health and Human Servs.*, 594 U. S. ____, ____ (2021) (*per curiam*) (slip op., at 6)
15 (internal quotation marks omitted).

16 8. The opinion of the Supreme Court further stated: “The question before us is
17 not how to respond to the pandemic, but who holds the power to do so. The answer is
18 clear: Under the law as it stands today, that power rests with the States and Congress,
19 not OSHA.” *Id.*, Gorsuch Concurring at 6-7.

20 9. Plaintiffs, workers at the Hanford Site, (collectively “Employees”) come to this
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22
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24
25

1 Court seeking relief regarding their imminent and wrongful termination, and the
2 coercion imposed by Executive Order 14042 and/or Executive Order 14043.

3 10. The Hanford Site will have insufficient workers, including Hanford Guards and
4 other employees required to maintain a minimum safe (“min safe”) work environment
5 at the Hanford Site if the provisions of Executive Order 14042 and/or Executive Order
6 14043, are enforced. The Defendants are on notice of this imminent and dangerous
7 circumstance.
8

9
10 11. Plaintiffs seek emergency relief, challenging the validity and enforceability of
11 Executive Order 14042 and Executive Order 14043 (the “Executive Orders”) on the
12 grounds that each is constitutionally or otherwise legally defective. Plaintiff’s claim that
13 the Executive Orders are defective on their face and are separately and independently
14 defective as applied.
15

16 12. Plaintiffs further challenge each individual Defendant Employer’s application,
17 implementation, or enforcement of the Executive Orders developed by the
18 representative Hanford Site Management Defendants (i.e., Defendants Vance, McCain,
19 Sax, Wilkinson, Hardy, Whitmer, Ashby, and Eschenberg).
20

21 13. The actions of the Defendant Employers and the Hanford Site Management
22 Defendants under the circumstances of this case, constitute government action.
23

24 **VENUE AND JURISDICTION**

25 14. This Court has jurisdiction pursuant to 28 USC §§ 1331 & 1343.

1 15. Venue is proper in this Court where the Defendants reside in and/or act in their
2 official capacities in the Eastern District of Washington pursuant to 28 USC § 1391.
3 Each factor is located within this District as the United States Department of Energy
4 Hanford Site is located in the Eastern District.
5

6 16. This court has supplemental jurisdiction based on the Washington Law Against
7 Discrimination (“WLAD”), Revised Code of Washington (“RCW”) 49.60 claims
8 pursuant to 28 USC § 1367(a).
9

10 **PARTIES**

11 ***Defendants***

12 17. Defendant, United States Secretary of Energy, Jennifer Granholm, is named in
13 her official capacity as the Secretary of Energy.
14

15 18. Defendant Brian Vance is the Manager of the United States Department of
16 Energy (“DOE”) Hanford Site (“Hanford Site”). Mr. Vance, as the DOE Manager of
17 the Hanford Site, has directed Hanford sitewide enforcement and implementation of
18 Executive Orders 14043 and 14042. Mr. Vance is being sued in his professional
19 capacity as DOE Hanford Site Manager for enforcement and implementation of
20 discriminatory workplace policies that will result in the termination of DOE employees
21 and federal contractor employees.
22
23

24 19. Defendant Valerie McCain is the Vit Plant Project Director for Bechtel. Bechtel
25 is a DOE prime contractor performing work at the Hanford Site. Ms. McCain has

1 directed the enforcement and implementation of the COVID-19 vaccine mandate for
2 Bechtel Employees under Executive Order 14042. Ms. McCain is being sued in her
3 professional capacity as Vit Plant Project Director for Bechtel for such enforcement and
4 implementation.

5
6 20. Defendant Scott Sax is the President and Project Manager of Central Plateau
7 Cleanup Company (“CPCCo”). CPCCo is a DOE prime contractor performing work at
8 the Hanford Site. Mr. Sax has directed the enforcement and implementation of the
9 COVID-19 vaccine mandate for CPCCo employees under Executive Order 14042. Mr.
10 Sax is being sued in his professional capacity as CPCCo President and Project Manager
11 for such enforcement and implementation.

12
13 21. Defendant Robert Wilkinson is the President and Program Manager of Hanford
14 Mission Integrated Solutions, LLC. (“HMIS”). HMIS is a DOE prime contractor
15 performing work at the Hanford Site. Mr. Wilkinson has directed the enforcement and
16 implementation of the COVID-19 vaccine mandate for HMIS employees under
17 Executive Order 14042. Mr. Wilkinson is being sued in his professional capacity as
18 HMIS President and Project Manager for such enforcement and implementation of the
19 HMIS COVID-19 vaccine mandate.

20
21 22. Defendant Don Hardy is the 222-S Laboratory Manager for Hanford
22 Laboratories Management and Integration (“HLMI”). HLMI is a DOE prime contractor
23 performing work at the Hanford Site. Mr. Hardy, as the 222-S Laboratory Manager has
24
25

1 directed the enforcement and implementation of the COVID-19 vaccine mandate for
2 the 222-S Laboratory Employees under Executive Order 14042 and is being sued in his
3 professional capacity.

4
5 23. Defendant Hiram Seth Whitmer is the President and Program Manager, HPM
6 Corporation (“HPMC”). HPMC is a DOE prime contractor performing work at the
7 Hanford Site. Mr. Whitmer, as President and Program Manager has directed the
8 enforcement and implementation of the COVID-19 vaccine mandate for HPMC
9 Employees under Executive Order 14042 and is being sued in his professional capacity.

10
11 24. Defendant Steven Ashby is the Laboratory Director, Pacific Northwest National
12 Laboratory (“PNNL”). PNNL is managed and operated by Battelle Memorial Institute
13 a prime DOE contractor. Mr. Ashby has directed the enforcement and implementation
14 of the COVID-19 vaccine mandate for PNNL Employees under Executive Order 14042
15 and is being sued in his professional capacity.

16
17 25. Defendant John Eschenberg is the President and Chief Executive Officer of
18 Washington River Protection Solutions (“WRPS”). WRPS is a DOE prime contractor
19 performing work at the Hanford Site. Mr. Eschenberg, as President and Chief Executive
20 Officer has directed the enforcement and implementation of the COVID-19 vaccine
21 mandate for WRPS Employees under Executive Order 14042 and is being sued in his
22 professional capacity.
23
24

25 26. Defendant Joseph R. Biden is the President of the United States who issued

1 Executive Orders 14042 and 14043. Plaintiffs challenge the constitutionality
2 implementation and promulgation of Executive Orders 14042 and 14043 as-applied and
3 facially.

4
5 27. On January 13, 2022, DOE Headquarters sent out a DOECAST (an agencywide
6 message) titled *Delaying our Return to the Workplace*. (Exhibit A.) In that message,
7 signed by Tarak Shah, U.S. Department of Energy’s Chief of Staff, DOE noted that it
8 would commence enforcing its COVID-19 vaccination policy this week, as follows:

9
10 At the same time, we’re going to start our enforcement
11 procedures to ensure compliance with the mandatory
12 COVID-19 vaccination requirement, which we paused during
13 the holiday season. This week, we will proceed with the next
14 phase in progressive discipline for unvaccinated Federal
15 employees who haven’t applied for an exemption. The next
16 phase for these employees is a 14-calendar day unpaid
suspension. I urge these employees to get vaccinated or they
will continue in a disciplinary process where the final step is
removal from Federal service.

17 28. All DOE Plaintiffs have applied for the exemption; nonetheless, the statement
18 ties enforcement of seeking an exemption from becoming vaccinated to an urge “to get
19 vaccinated.” All DOE employees with an exemption, including the six DOE employee
20 Plaintiffs are at risk of imminent enforcement of DOE’s COVID-19 vaccination policy,
21 which will result in loss of wages, loss of job, and/or loss of First Amendment rights.
22

23 29. Defendants Vance, McCain, Sax, Wilkinson, Hardy, Whitmer, Ashby, and
24 Eschenberg each meet the definition of “employer” under 42 USC 2000(e), as each
25

1 organization exceeds 15 individuals.

2 30. Defendants Vance, McCain, Sax, Wilkinson, Hardy, Whitmer, Ashby, and
3 Eschenberg are properly named Defendants for each's own arbitrary and capricious
4 implementation of Executive Order 14042. Specifically, the arbitrary manner instituted
5 for denying or approving religious or medical exemptions and accommodations
6 associated with the COVID-19 vaccine mandate.
7

8 ***Plaintiffs***
9

10 31. David G. Donovan is a security police officer and a K9 handler for Hanford
11 Patrol with HMIS and is the president of the Hanford Guards Union; he has submitted
12 a religious exemption, accepted by HMIS, but was provided no accommodation.
13

14 32. Christopher J. Hall is a security police officer III with HMIS; he submitted a
15 religious exemption, accepted by HMIS, but was provided no accommodation. Mr. Hall
16 has natural immunity as he has contracted COVID-19.
17

18 33. Stephen C. Persons is an accountant with DOE; he submitted both a religious
19 and medical exemption, accepted by DOE, but has received no communications from
20 DOE discussing approval of exemption and accommodation.
21

22 34. Thomas R. Ardamica is a safety bases compliance officer for WRPS, he
23 submitted a medical exemption and a religious exemption. Mr. Ardamica's medical
24 exemption was denied, but his religious exemption was accommodated, allowing him
25 to work from home but subjecting Mr. Ardamica to weekly COVID-19 testing

1 measures, masking restrictions while outside his dedicated telework location; these
2 requirements exceed the exemption provided in the OSHA standards.

3 35. Terri Adams is an office specialist with Bechtel; she submitted a religious
4 exemption, accepted by Bechtel, and received temporary accommodation which will be
5 reevaluated 60 days after 1/18/2022, or if new DOE direction is provided, whichever
6 comes first.

7
8 36. Jeff Ahlers is a transportation manager for CPCCo; he has submitted a religious
9 exemption, accepted by CPCCo, and received revised accommodations after originally
10 being denied accommodation. He is required to comply with CDC guidance for
11 masking and physical distancing and must submit a negative COVID-19 test within 72
12 hours of work each Monday before 12pm. Mr. Ahlers has a positive COVID-19
13 antibody test and is willing to adhere to social distance and mask-wearing requirements.

14
15 37. Cody Almquist is a senior health physics/radiological controls technician for
16 CPCCo; he submitted a religious exemption, accepted by CPCCo but has received no
17 accommodation despite his willingness to continue to follow COVID-19 safety
18 protocols and submit to weekly testing.

19
20 38. Douglas Anderson is employed with Bechtel (WTCC); he submitted a religious
21 exemption, accepted by Bechtel, but has received no accommodation.

22
23 39. Cyrus Anderson is a Systems Engineer for WRPS; he submitted a religious
24 exemption, accepted by WRPS, but was provided no accommodation. In November, he
25

1 attempted to file a complaint with the EEOC, but was unable to, due to being a federal
2 contractor. He then contacted his WRPS EOC representative as the EECO website
3 advised. He was denied the opportunity to receive help filing his complaint as the
4 representative stated they were focusing their efforts on exemption responses.
5

6 40. Jaryd Joseph Anderson is an Operations Engineer; he submitted both a religious
7 and medical exemption, however, only the religious was accepted. Mr. Anderson was
8 denied accommodation despite his willing
9

10 41. Kevin Arena is a security police officer I for HMIS, he has submitted a religious
11 exemption, accepted by HMIS, but was originally not provided an accommodation.
12

13 42. Miguel Arredondo is a security police officer with HMIS, he has submitted a
14 religious exemption, accepted by HMIS, but was originally not provided an
15 accommodation.
16

17 43. Don Baker is a senior radiological control technician for CPCCo, he has
18 submitted a religious exemption, accepted by CPCCo, but was originally not provided
19 an accommodation despite his willingness to social distance, wear a mask and/or
20 regularly test. He is in the process of filing a complaint with the EEOC.
21

22 44. Dayna Coffey Ardamica is an administrator level II manager for WRPS, she
23 submitted a religious exemption, which WRPS approved and included continued
24 teleworking (which she has done successfully for 20 months) but required weekly
25 COVID-19 testing at her personal time and expense, which fails to recognize the OSHA

1 exemption for teleworkers.

2 45. Kora Bales is a security police officer with HMIS.

3 46. Tain Ballantyne is a security police officer III for HMIS, he has submitted a
4 religious exemption, accepted by HMIS, but was originally not provided an
5 accommodation.
6

7 47. Daniel Beam is a security police officer with HMIS; he submitted a religious
8 exemption, accepted by HMIS, but was provided no accommodation. Mr. Beam began
9 the interactive process seeking possible solutions to facilitate creating accommodation.
10 HMIS sent a revised, temporary 60-day accommodation, starting January 18, 2022, that
11 requires the following conditions: 1) wear a mask at all times, except when eating,
12 drinking or allowed; 2) social distance and isolate to the maximum extent practical; 3)
13 submit weekly negative COVID-19 test results, no greater than 72-hours, to manager
14 upon start of shift. Testing must be conducted during Mr. Beam's personal time and at
15 his expense. HMIS will re-evaluate the temporary accommodation as they see fit to
16 determine if it still applies to the employee. The stress and constant state of limbo that
17 these ever-changing accommodations are causing has created a propensity towards high
18 blood pressure that could potentially disqualify him from his duties.
19

20 48. Jess Bean is a worker at the Hanford Site and a laborer for the Local 348 at
21 American Electric, has submitted a religious exemption but was originally not provided
22 an accommodation.
23
24
25

1 49. Jared Betker is a security police officer III for HMIS, he has submitted a religious
2 exemption, accepted by HMIS, but was originally not provided an accommodation.

3 50. William Bingham was a senior project manager for WRPS; he submitted a
4 religious exemption, accepted by WRPS, but was initially provided no accommodation,
5 with a set termination date of 12/8/2021. Mr. Bingham received a revised temporary
6 accommodation offer in late November 2021 allowing for teleworking from home with
7 approved location from WRPS, requiring masking and social distancing when working
8 on site, weekly COVID-19 testing during his own time and with his own money. He
9 began the accommodation interactive process to seek approval for telework out of state,
10 as he was forced to sell his house, due to the 12/08/2021 termination date, and he
11 secured a home out of state. WRPS denied his request for telework out of state, forcing
12 Mr. Bingham into termination of employment. but was originally not provided an Luis
13 Blanco is a security police officer II for HMIS, he has submitted a religious exemption,
14 accepted by HMIS, but was originally not provided an accommodation.
15

16 51. Leslie Blank is an operations support specialist/planning expeditor for WRPS.
17 She submitted a religious exemption, accepted by WRPS but was originally given no
18 accommodation. Ms. Blank received a revised, temporary accommodation that will be
19 re-evaluated on March 18, 2022.
20

21 52. Erik Bombard is a security police officer II/tactical response team member for
22 HMIS, he has submitted a religious exemption, accepted by HMIS, but was originally
23

1 not provided an accommodation.

2 53. James Booth is an engineering supervisor for Bechtel, he has submitted a
3 religious exemption, accepted by the city, and has been provided a temporary
4 teleworking accommodation through February 7, 2022. WTP then sent out a revised,
5 temporary teleworking accommodation with the following requirements: 1) HR
6 approval is required in the event that Mr. Booth needs to come to the office; 2) a
7 negative COVID-19 test is required to be at the office; 3) when approved to come to the
8 office, Mr. Booth is expected to comply with all COVID-19 safety protocols outlined
9 in the most current version of the WTP COVID-19 Fact Sheet. Mr. Booth currently has
10 an EEOC Case No.: 551-2022-01724.

13 54. Stephanie Boschert is a health physicist for WRPS, she has submitted a religious
14 exemption, accepted by WRPS, but was originally not provided an accommodation.

16 55. Shanna Brittain is an operations specialist-ground scanner/land surveyor
17 assistant for CPCCo; she submitted a religious exemption, accepted by CPCCo, but was
18 not provided an accommodation despite her job requiring her to work mainly outdoors,
19 willingness to social distance, wear a mask and perform daily health screenings and/or
20 regular testing to work. She then received a revised, temporary accommodation until
21 March 19, 2022, allowing her to come to the workplace under conditions set forth by
22 CPCCo including adherence to CDC guidance for masking and physical distancing,
23 providing a minimum of one Covid-19 test each Monday and being able to fulfill
24
25

1 workplace requirements.

2 56. Nathaniel Brook is an electrician with CPCCo; he submitted a religious
3 exemption, accepted by CPCCo, but was provided no accommodation. He also
4 submitted a medical exemption, signed by his doctor, based on a previous severe
5 reaction to a vaccine. He has not received response back from CPCCo regarding that
6 request.
7

8 57. Jeff Brooks is a Journeyman/Radiological Control Technician for CPCCo; he
9 submitted a religious exemption, accepted by CPCCo, but was provided no
10 accommodation despite his willingness to social distance, wear a mask and/or regularly
11 test. Mr. Brooks filed a complaint with the EEOC and is awaiting further
12 communication. Bryan Brophy is a Nuclear Chemical Operator for CPCCo; he
13 submitted a religious exemption, accepted by CPCCo, but was provided no
14 accommodation despite limited contact with coworkers, willingness to continue mask
15 wearing and following safety protocols. Mr. Brophy tested positive for COVID-19
16 antibodies on August 27, 2021. CPCCo offered a temporary, 60-day COVID-19
17 Vaccination Exemption Accommodation Revision that included the following
18 conditions: 1) compliance with CDC guidance for masking; 2) compliance with
19 published CDC guidance for physical distancing; 3) Mr. Brophy must provide a
20 minimum of one negative Covid-19 test each Monday before noon; 4) Mr. Brophy must
21 be able to fulfill applicable CPCCo workplace requirements. This accommodation
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1 requires that all Covid-19 tests relating to the accommodation must be conducted during
2 Mr. Brophy's personal time and at his expense. The temporary accommodation ends
3 March 19, 2022, and is subject to re-evaluation at any time.

4
5 58. Luke Bultena is a security police officer III for HMIS, he has not submitted an
6 exemption request.

7
8 59. I. C. is a security police officer II for HMIS, and has submitted a religious
9 exemption, accepted by HMIS, but was originally not provided an accommodation.

10
11 60. George Case is an operations specialist for Bechtel (WRPS) and submitted a
12 medical exemption, which was accepted by Bechtel (WRPS), but was originally not
13 provided an accommodation.

14
15 61. Rene Catlow is a Risk Management Manager at CPCCo who initially sought a
16 medical exemption, but her provider would not affirm, so she submitted a religious
17 exemption, which was accepted by CPCCo, and she was offered: 100% telework,
18 requiring that she not enter Hanford facilities; weekly Covid-19 testing at her own
19 expense and on her own time.

20
21 62. Benjamin Chavez is a planner for TerraGraphics. Prior to November 18, 2021, Mr.
22 Chavez was a planning and scheduling manager for TerraGraphics. Mr. Chavez tested
23 positive for COVID-19 on August 20, 2021 and was out of work due to COVID-19
24 from August 19, 2021 through November 15, 2021. On September 17, 2021, Mr.
25 Chavez was diagnosed with COVID-pneumonia and had a chest x-ray, which showed

1 what appeared as “shards of glass” in his lungs; Mr. Chavez was prescribed steroids to
2 combat the COVID-pneumonia. On September 21, 2021, Mr. Chavez was diagnosed
3 with hemoptysis (blood in his sputum), and on September 28, 2021, noticed that his
4 lungs were filling with fluid. Mr. Chavez was subsequently prescribed a second round
5 of “stronger” antibiotics. On October 4, 2021, Mr. Chavez revisited his doctor, who
6 ordered a CT scan, which was reviewed on October 7, 2021. The CT scan revealed that
7 a 2-inch cavity in Mr. Chavez's lung, which was confirmed by a visit to a pulmonologist
8 on October 12, 2021, where Mr. Chavez was prescribed a fourth round of antibiotics.
9
10 Mr. Chavez returned to my primary care doctor on November 2, 2021, to discuss his
11 condition. At that time, Mr. Chavez’s doctor advised him against the COVID-19
12 vaccination, although the doctor was unable to provide a medical exemption as Kadlec
13 (the doctor’s employer) will only allow doctors to provide COVID-19 vaccination
14 exemptions for anaphylaxis. Throughout most of this time, Mr. Chavez was primarily
15 bedridden due to his COVID-19 symptoms. On November 2, 2021, Mr. Chavez
16 submitted a religious and a medical exemption, and TerraGraphics conclude that it
17 could not accommodate Mr. Chavez’s request. Mr. Chavez returned to the office on
18 November 15, 2021 and was advised of his change in title/scope of work as of
19 November 18, 2021. On December 14, 2021, Mr. Chavez’s management advised that
20 TerraGraphics would like him to rejoin management, although noting specific was
21 offered. In December 2021, TerraGraphics offered Mr. Chavez a medical exemption
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1 from the COVID-19 vaccination on the condition that he commit to the vaccine as soon
2 as his health allows. Mr. Chavez has telecommuted since early 2020, when
3 TerraGraphics issued a work-from-home order.

4
5 63. Nick Chacon is a security police officer with HMIS, he has submitted a religious
6 exemption, accepted by HMIS, but was originally not provided an accommodation.

7
8 64. Mary Catherine Christianson is a senior engineer for Bechtel, she has submitted
9 a religious exemption, accepted by Bechtel, she has teleworked since March 2020, and
10 her accommodation is continued telework with mandatory COVID-19 testing until
11 February 2021, exceeding the OSHA standards.

12
13 65. James T. Clark is an employee with WRPS; he submitted both a religious and
14 medical exemption due to a history of blood clots. Both were denied and he was not
15 provided accommodation.

16
17 66. Justin Clancy is a nuclear chemical officer with WRPS who had a severe adverse
18 reaction to prior vaccines and submitted a medical exemption and has been advised by
19 his doctor to not take the second shot, he has been provided no accommodation.

20
21 67. Todd Jacob Clark is a sheet metal worker for HMIS, he has sought a religious
22 accommodation and offered to pay for testing, but he has been provided no
23 accommodation.

24
25 68. Margaret Clark is a project support specialist for CPCCo, she has submitted a
religious exemption, accepted by CPCCo, but was originally not provided an

1 accommodation.

2 69. Becky Colborn is an operations specialist for HMIS and submitted religious
3 exemption accepted by HMIS but was originally not provided an accommodation.

4 70. David Cole is a senior work planner for WRPS, he has submitted a religious
5 exemption, accepted by WRPS, but was originally not provided an accommodation. Mr.
6 Cole started an EEOC Inquiry and was assigned number: 551-2022-00993. Mr. Cole
7 was scheduled for a telephone interview on December 23, 2021, with Sandra McCreery.
8 He is awaiting further communication.
9
10

11 71. Mary Cole is an operations support specialist for CPCCo, she has submitted a
12 religious exemption, accepted by CPCCo, but was originally not provided an
13 accommodation. Mrs. Cole then received a revised temporary accommodation
14 including weekly testing, without further guidance on what that testing will entail.
15 CPCCo, despite giving full guidance and criteria for weekly testing, expected Mrs. Cole
16 to inform them of her decision to accept or reject the revised, temporary accommodation
17 no later than 12/7/2021.
18
19

20 72. Dodd Coutts is a security police officer III with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but was originally not provided an
22 accommodation.
23

24 73. James Cuevas is a security police officer I with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 74. DawnLeigh Curtis is a nuclear chemical operator for WRPS, she has submitted
3 a religious exemption, accepted by WRPS, but was originally not provided an
4 accommodation. Ms. Curtis can provide proof of a positive COVID-19 antibody test.
5

6 75. Kelly Custer is a senior internal auditor for CPCCo, she has submitted a religious
7 exemption, accepted by CPCCo, and was provided the following temporary
8 accommodation on October 26, 2021: 1) designate a telework location, determined to
9 be her home (where she has teleworked since March 2020); 2) Ms. Custer wear a mask
10 when leaving her approved telework location during teleworking hours (not a prior
11 requirement to the past 18+ months of Ms. Custer's telework situation); 3) Ms. Custer
12 submit weekly COVID-19 testing submitted every Monday by 12 PM at her own cost
13 and on non-working hours (i.e., her own time); and 4) she be readily available to submit
14 to random drug testing or other workplace requirements, as needed. On October 28,
15 2021, Ms. Custer was advised that she cannot return to the Hanford Site unless she
16 becomes fully vaccinated against COVID-19.
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20 76. D. N. is a firefighter captain/EMT with HMIS; he has submitted a religious
21 exemption, accepted by HMIS, but was originally not provided an accommodation.
22

23 77. Lane Dahl is an IT technician with PNNL; he submitted a request for religious
24 exemption, denied by PNNL, and was provided no accommodation. Mr. Dahl appealed
25 the denial through an interactive process with employee relations and April Castaneda

1 and was denied a second time. PNNL has involuntarily placed Mr. Dahl on
2 administrative leave without pay, extended through April 15, 2022.

3 78. Jeffrey Daniels is a project controls officer with the United States Department of
4 Energy (“DOE”), he has submitted a religious exemption, accepted by DOE, but was
5 originally not provided an accommodation.
6

7 79. Jamie Davies worked for PNNL as a dosimetry technician; she submitted a
8 religious exemption, accepted by PNNL, and was provided no accommodation despite
9 having been successfully and safely teleworking since March 2020 with occasional
10 onsite visits. The religious exemption was denied by PNNL stating, “we have been
11 unable to conclude that you meet the legal requirements for an exemption.” Ms. Davies
12 was offered to 1) continue to work through 11/15/2021, or 2) take paid leave through
13 11/15/2021, or 3) take a personal leave of absence for up to one year, if eligible. Ms.
14 Davies appealed the accommodation denial received from PNNL. This appeal was also
15 denied, and Ms. Davies requested the metrics by which the legal threshold was
16 established and who established them for a religious exemption. Her questions were
17 never answered; instead, Ms. Davies was involuntarily placed on Leave of Absence
18 without pay, 12/8/2021 extended through 1/18/2022. Her benefits such as medical,
19 vision and dental insurance have all stopped as of 12/31/2021. Davies was placed on
20 Administrative Leave Without Pay on December 8, 2021, cashed out her remaining
21 vacation, and is no longer employed by PNNL due to her religious objection to the
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1 COVID-19 vaccine mandate. Ms. Davies has filed a complaint with the EEOC and has
2 been issued Case No.: 551-2022-01543.

3 80. Scott Dawson is an industrial hygiene technician with WRPS; he has submitted
4 a religious exemption, accepted by WRPS, but was originally not provided an
5 accommodation.
6

7 81. Mary Day is a technical editor for CPCCo; she submitted a religious exemption,
8 accepted by CPCCo, and was offered a temporary accommodation that included
9 teleworking, mask wearing, weekly COVID-19 testing due before noon each Monday,
10 and being able to fulfill applicable CPCCo workplace requirements.
11

12 82. Briana DeLine is a security police officer I with HMIS, she received both
13 COVID-19 shots in April 2021. She had complications with the shots and her PCP
14 stated that she should not have gotten them and that she is not to receive any future
15 booster shots. Ms. DeLine submitted a medical exemption request from future booster
16 shots requirements. HMIS informed Ms. DeLine that no prospective exemptions would
17 be offered at this time, as boosters are not a required condition of employment and
18 therefore do not need to be accommodated/exempted.
19
20

21 83. Darryn DeLine is an industrial hygiene technician for WRPS, he has submitted
22 a religious exemption, accepted by WRPS, but was originally not provided an
23 accommodation.
24

25 84. James Dewey is a worker on the Hanford Site; he submitted for exemption and

1 was not provided accommodation.

2 85. Drew Diedrich is an industrial hygiene technician for WRPS, he has submitted
3 an initial declination of the COVID-19 vaccine on October 19, 2021, and then submitted
4 a religious exemption on October 20, 2021, under duress. On October 27, 2021, WRPS
5 accepted Mr. Diedrich's religious accommodation and rejected his exemption. On
6 November 30, 2021, WRPS provided a conditional, 60-day accommodation, effective
7 January 18, 2022, exempting him from the COVID-19 vaccine mandate under the
8 following conditions: (1) Compliance with published CDC masking and physical
9 distancing guidance; (2) Furnishing WRPS with a minimum of one negative Covid-19
10 test each Monday before noon; and (3) Continued ability to fulfill applicable WRPS
11 workplace requirements. On December 1, 2021, Mr. Diedrich inquired of the
12 conditions, and on December 7, 2021, Mr. Diedrich accepted the accommodation. but
13 was originally not provided an.

17 86. Gregg Dillingham is a Lead Health Physics Technician with WRPS; he
18 submitted a religious exemption, accepted by WRPS, but was provided no
19 accommodation.

21 87. Todd Dirks is a pipe fitter for WRPS; he submitted a request for religious
22 exemption, accepted by WRPS, but was provided no accommodation. On November
23 3, 2021, Mr. Dirks filed a complaint with the Office of Federal Contract Compliance
24 Programs, noting his belief that he was subjected to discriminatory behavior associated
25

1 with the COVID-19 vaccine mandate; that same day, Mr. Dirks filed a complaint with
2 the EEOC and was granted Case No.: 551-2022-01540.

3 88. John Doell is a security police officer I with HMIS, he has submitted a religious
4 exemption, accepted by HMIS, but was originally not provided an accommodation.
5

6 89. Jake Domit is a security police officer III with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 90. Steve Donaldson is a firefighter/EMT with HMIS, he has submitted a religious
11 exemption, accepted, and HMIS provided accommodations, including COVID-19
12 testing and mask-wearing, but those accommodations have since been rescinded, and
13 Mr. Donaldson is left with the option of receiving the COVID-19 vaccination or
14 termination.
15

16 91. Kathryn Draper is an environmental specialist for WRPS, she has submitted a
17 religious exemption, accepted by WRPS, but was originally not provided an
18 accommodation. Ms. Draper tested positive for COVID-19 on August 2, 2021.
19

20 92. Eric Dysland is a technical specialist; he submitted both a religious and medical
21 exemption. His medical exemption was denied; however, his religious exemption was
22 accepted, and he was provided temporary accommodations of teleworking and testing
23 at his own time and expense.
24

25 93. Mike Eddy is an IT specialist with DOE, he has submitted a religious exemption,

1 accepted by DOE, but was originally not provided an accommodation.

2 94. Alexandria Edwards is an insulator with CPCCo she has submitted a religious
3 exemption, accepted by CPCCo, but was originally not provided an accommodation.

4 95. Mary Ruth Edwards is an operations support specialist with CPCCo, she has
5 submitted a religious exemption, accepted by CPCCo, was provided no
6 accommodation. Ms. Edwards filed a complaint with the EEOC, was issued Case No.:
7 551-2022-00911 on October 27, 2021, and is awaiting an available appointment to
8 conduct her interview.
9

10
11 96. Luke Ellis is a pipefitter with HMIS, he has submitted a religious exemption,
12 accepted by HMIS, but was originally not provided an accommodation.

13 97. Jesse Elvik is a security police officer I with HMIS, he has submitted a religious
14 exemption, accepted by HMIS, but was originally not provided an accommodation.

15 98. Zachery Eslick is a security police officer II for HMIS, he has submitted a
16 religious exemption, accepted by HMIS, but was originally not provided an
17 accommodation.
18

19
20 99. Eric Espinoza is a security police officer with HMIS, he has submitted a religious
21 exemption, accepted by HMIS, but was originally not provided an accommodation.
22

23 100. Cheryl Evosevich is an emergency preparedness coordinator for CPCCo, she
24 submitted a religious exemption from the COVID-19 vaccine on October 11, 2021,
25 which was accepted by CPCCo. On October 26, 2021, CPCCo accepted Mrs.

1 Evosevich's request, but offered no accommodation. On October 28, 2021, CPCCo
2 offered clarification that it did not object to Mrs. Evosevich's religious component but
3 maintained that it would not offer the requested exemption. Mrs. Evosevich filed an
4 EEOC complaint on November 7, 2021; Mrs. Evosevich is awaiting an appointment
5 and a Case Number. On November 30, 2021, CPCCO offered a temporary 60-day
6 accommodation effective January 18, 2022 under the following conditions: (1)
7 Compliance with published CDC masking and physical distancing guidance; (2)
8 Providing CPCCo with a minimum of one negative Covid-19 test each Monday before
9 noon; and (3) Continued ability to fulfill applicable CPCCo workplace requirements
10 (e.g. availability for random drug screening).
11
12

13
14 101. Adam Faries is a security police officer III with HMIS, he has submitted a
15 religious exemption, accepted by HMIS, but was originally not provided an
16 accommodation.

17
18 102. Marcus Faries is a mechanical engineer with WRPS, he has submitted a
19 religious exemption, accepted by WRPS, but was originally not provided an
20 accommodation.

21
22 103. Robyn Faris is an officer manager with Columbia Energy, a subcontractor to
23 WRPS. On October 26, 2021, Columbia Energy transmitted an email that all Columbia
24 Energy employees would be required to become fully vaccinated against COVID-19
25 pursuant to Executive Order 14042. Ms. Faris submitted a religious and medical

1 exemption, which accepted by Columbia Energy, but she was provided no
2 accommodation. Ms. Faris' religious exemption included a signed letter from her
3 pastor, and her medical exemption noted her doctor's concern with the COVID-19 shot
4 due to a blood clotting disorder, where Ms. Faris' blood does not clot. Ms. Faris' doctor
5 did not provide a medical exemption for fear of losing her license. December 10, 2021,
6 Ms. Faris was offered a conditional accommodation based on the following conditions:
7
8 (1) mask wearing, social distancing and continued safety protocols (good hygiene); and
9
10 (2) weekly COVID-19 testing at her expense. Ms. Faris accepted this conditional
11 exemption under duress.

12 104. Thomas Farris a security police officer I with HMIS, he has submitted a
13 religious exemption, accepted by HMIS, but was originally not provided an
14 accommodation.
15

16 105. Jennifer Fish is a shift operations manager, building emergency director, and
17 fieldwork supervisor for CPCCo, she has submitted a religious exemption, accepted by
18 CPCCo, but was originally not provided an accommodation.
19

20 106. John Flanagan is an electrician for HMIS; he submitted for religious exemption,
21 accepted by HMIS, but was originally given no accommodation. He then received a
22 revised, temporary accommodation allowing for weekly COVID-19 testing, mask
23 wearing, social distancing and isolation to the maximum extent practical. These
24 temporary accommodations have an unknown end-date.
25

1 107. Randy Fox is a stationary operating engineer with CPCCo, he has submitted a
2 religious exemption, accepted by CPCCo, but was originally not provided an
3 accommodation.

4 108. Alejandro Fragozo works for WRPS.

5
6 109. Michael Frazier is a property specialist with WRPS, he has submitted a
7 religious exemption, accepted by WRPS, but was originally not provided an
8 accommodation.

9
10 110. Sharon Freeland is an admin IV training scheduler with Veolia, a subcontractor
11 to CPCCo, she has submitted a religious and a medical exemption, accepted by Veolia,
12 but was originally not provided an accommodation.

13
14 111. Dorothy Frenzel was a Health Physics Technician for WRPS. After receiving
15 information that COVID-19 vaccination would be a requirement of employment, Mrs.
16 Frenzel sought guidance with her manager. She was informed that she would be
17 administratively terminated if she did not receive the vaccine. Mrs. Frenzel alleged
18 constitutional and civil rights violations and undue stress as grounds for early
19 retirement. On October 30, 2021, Mrs. Frenzel emailed Neil Schuldenfrei, listed on the
20 EEOC as the DOE contact, to request the interview required for starting a discrimination
21 complaint. Mr. Schuldenfrei notified Mrs. Frenzel that he is no longer the DOE EEO
22 contact. She was then contacted by Jody Tallbear informing her that her new contact is
23 Santos Ortega. Mrs. Frenzel has yet to be able to communicate with Mr. Ortega despite
24
25

1 attempts to do so.

2 112. Paul Frenzel was a Health Physics Technician for HMIS. After receiving
3 information that COVID-19 vaccination would be a requirement of employment, he
4 sought direction through his managers. Mr. Frenzel was informed that he would be
5 administratively terminated if he did not receive the vaccine. He resigned, under duress,
6 citing that the choice of whether or not to get vaccinated should be decided only by the
7 individual, and employment status should not be tied to this decision. On October 30,
8 2021, Mr. Frenzel emailed Neil Schuldenfrei, listed on the EEOC as the DOE contact,
9 to request the interview required for starting a discrimination complaint. Mr.
10 Schuldenfrei notified Mr. Frenzel that he is no longer the DOE EEO contact. He was
11 then contacted by Jody Tallbear and informed that his new contact is Santos Ortega.
12 Mr. Frenzel has yet to be able to communicate with Mr. Ortega despite attempts to do
13 so.
14

15
16
17 113. Daniel Gabbard is a security police officer for HMIS and has been provided no
18 accommodation.
19

20 114. Jennifer Gardner works for HMIS, she has submitted a religious exemption,
21 accepted by HMIS, but was originally not provided an accommodation.
22

23 115. James Gagnon is an industrial property management specialist for DOE, he has
24 submitted a religious exemption, accepted by DOE, but was originally not provided an
25 accommodation.

1 116. Efren Garcia is a security police officer II with HMIS and is vaccinated but
2 opposes requirements for a booster shot.

3 117. Eric Garcia is a security police officer with HMIS, he has submitted a religious
4 exemption, accepted by HMIS, but was originally not provided an accommodation.
5

6 118. Jaime Garcia is a security police officer with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 119. John Garfield works for WRPS, he has submitted a religious exemption,
11 accepted by WRPS, but was originally not provided an accommodation.

12 120. Matthew Garlick is an engineer at WRPS, he has submitted a religious
13 exemption, accepted by WRPS, but was originally not provided an accommodation.
14

15 121. Chris George is a security police officer with HMIS.

16 122. Ben Giese is an instrument technician with HMIS, he has submitted a religious
17 exemption, accepted by HMIS, but was originally not provided an accommodation.
18

19 123. Don Giese is an instrument technician with HMIS, he has submitted a religious
20 exemption, accepted by HMIS, but was originally not provided an accommodation. Mr.
21 Giese will be forced to retire early if COVID-19 vaccination remains a requirement to
22 retain his employment.
23

24 124. Brandon Gimlin is a radiological control technician for WRPS, he has
25 submitted a religious exemption, accepted by WRPS, but was originally not provided

1 an accommodation. Mr. Gimlin filed a complaint with the EEOC on October 27, 2021,
2 was issued Case No.: 551-2022-00906, and has an appointment with the EEOC officer
3 on February 22, 2022.

4
5 125. Crystal Girardot is an engineer that works for WRPS, she has submitted a
6 religious exemption, accepted by WRPS, and was not provided an accommodation.
7 WRPS subsequently revised its COVID-19 policy (presumably on November 30, 2021,
8 as many of the WRPS employees have attested), but Mrs. Girardot was on maternity
9 leave at the time. Mrs. Girardot remains unaware of the status of her COVID-19
10 exemption request. On November 1, 2021, Mrs. Girardot filed a complaint with the
11 EEOC, and she has an appointment scheduled with a counselor on February 22, 2022.

12
13
14 126. Levi Glatt is a security police officer III with HMIS, he received the first
15 vaccination and objects to further vaccinations and has been provided no
16 accommodation.

17
18 127. Heather Goldie was a Director of Workforce Engagement and Legacy Benefits
19 for HMIS; she submitted a religious exemption, accepted by HMIS, and was provided
20 temporary accommodation that included a required job reassignment to Project
21 Manager with HMIS. Her temporary accommodations included the requirement to wear
22 a mask at all times, weekly testing within 72 hours of start of shift during personal time
23 and at her expense, and social distancing and isolation to the maximum extent possible.
24 This accommodation is temporary and will be re-evaluated in 60 days or as needed.
25

1 Ms. Goldie attempted filing an EEOC complaint through the DOE EEO Office. She
2 has been unsuccessful as she has yet to receive a response from Mr. Santos Ortega in
3 the Richland EEO office.

4
5 128. Michael Gomez is a security police officer II with HMIS, he has submitted a
6 religious exemption, accepted by HMIS, but was originally not provided an
7 accommodation.

8
9 129. Enrique Gonzales is a Headquarter Captain with HMIS; he submitted a
10 religious exemption, considered administratively complete, but was initially provided
11 no accommodation, stating December 8, 2021, as the date for administrative termination
12 if not vaccinated. Mr. Gonzales started the interactive process with HR to facilitate
13 determination of possible accommodation. HMIS offered a revised, temporary
14 accommodation to Mr. Gonzales allowing him to follow safety measures in lieu of being
15 vaccinated stating he must: 1) wear a mask at all times, except when eating, drinking,
16 vaccinated stating he must: 1) wear a mask at all times, except when eating, drinking,
17 or as allowed; 2) social distance and isolate to the maximum extent practical; 3) submit
18 weekly negative COVID-19 test results to manager upon start of shift each week, or as
19 otherwise directed by HMIS, beginning January 18, 2022. Mr. Gonzales must conduct
20 the tests during his personal time and at his expense. HMIS can re-evaluate the
21 accommodation at any time and as they feel necessary.
22
23

24 130. Christopher Goodsel is a health physics technician with WRPS, he has
25 submitted a religious exemption, accepted by WRPS, but was originally not provided

1 an accommodation. He has natural immunity as provide from a positive antibody test;
2 Mr. Goodsel also offered to pay for testing on his own to retain his employment, and
3 his employer rejected this offer.

4
5 131. Michelle Gradin is a janitor for HMIS, she has submitted a religious exemption,
6 accepted by HMIS, but was originally not provided an accommodation.

7 132. Delmer Graham is a security police officer with HMIS.

8
9 133. Matthew Gray is a shift supervisor with the Hanford Patrol of HMIS, he has
10 submitted a religious exemption, accepted by HMIS, but was originally not provided an
11 accommodation.

12 134. Jerry Gridley is an Operations Specialist/IT&M Program Lead with HMIS; he
13 submitted a religious exemption, accepted by HMIS, and was provided a temporary
14 accommodation. Mr. Gridley is permitted to telework and is required to have a
15 minimum of one negative COVID-19 test during each (rolling) 7-day period. He is
16 required to have management approval before being on the Hanford site and is required
17 to wear an appropriate mask and ensure social distancing at all times while on premise.
18 This temporary accommodation was granted for 60 days and will be re-evaluated at that
19 time or as needed in order to comply with changes.

20
21
22 135. Jose Gutierrez is a security police officer I with HMIS, he has submitted a
23 religious exemption, accepted by HMIS, but was originally not provided an
24 accommodation.
25

1 136. Joseph Hade is a senior health physics/ radiological control technician for
2 CPCCo, he has submitted a religious exemption, accepted by CPCCo, but was
3 originally not provided an accommodation.
4

5 137. Levi Hamby is a security police officer III with HMIS, he has submitted a
6 religious exemption, accepted by HMIS, but was originally not provided an
7 accommodation.
8

9 138. Eric Hanson works for WRPS; he submitted a religious exemption, accepted
10 by WRPS, and received a conditional, temporary (60-day) accommodation that
11 includes: 1) identifying to WRPS his primary work location; 2) wearing an appropriate
12 mas when working outside the telework location or directly interacting with others on
13 business-related matters; 3) being able to fulfill applicable WRPS workplace
14 requirements; 4) providing and minimum of one negative COVID-19 test each Monday
15 before noon. All tests relating to the accommodation must be conducted during Mr.
16 Hanson's personal time and at his expense. The accommodation was set to end on
17 February 8, 2022, but was extended by WRPS to March 18, 2022.
18
19

20 139. Cameron Hardy works as a public affairs specialist for DOE, he has submitted
21 a religious exemption on September 13, 2021, which was accepted by DOE. Mr. Hardy
22 requested a meeting with the DOE Reasonable Accommodations Officer on September
23 16, 2021. During that meeting, Mr. Hardy was advised that DOE was awaiting guidance
24 from the Department of Justice on how to process exemptions. On October 15, 2021,
25

1 Mr. Hardy was advised by the DOE Reasonable Accommodations Officer that he would
2 be required to submit a new Reasonable Accommodation form that required additional
3 personal information; Mr. Hardy objected to this requirement but submitted the new
4 form on October 18, 2021. Mr. Hardy lodged an EEO complaint with the DOE EEO
5 Officer, Santos Ortega, on November 3, 2021. Mr. Hardy is awaiting a response from
6 DOE.
7

8 140. Douglas Hart is an instrumentation specialist with HMIS, he has submitted a
9 religious exemption, accepted by HMIS, but was originally not provided an
10 accommodation. Mr. Hart has a positive COVID-19 antibody test.
11

12 141. Marguerite Hart is a contracts technician with HPMC; she has submitted a
13 religious exemption, accepted by HMIS, but was originally not provided an
14 accommodation.
15

16 142. Nicole Hart is a contracts specialist II with PNNL; she submitted a religious
17 exemption, which was accepted by PNNL, but initially received no accommodation.
18 Ms. Hart noted that four of her PNNL colleagues who are either providing
19 accommodations for Contracts Specialists and Contracts Assistants (Mindy Wright,
20 Cassie Smith, and Erika Frederick, have received accommodations. On November 24,
21 2021, Ms. Hart filed a complaint with the EEOC case number 551-2022-01738. On
22 December 2, 2021, Ms. Hart was placed on a “personal unpaid Leave of Absence” as a
23 PNNL “management directed leave” until January 18, 2022, or until she receives the
24
25

1 COVID-19 vaccine; Ms. Hart refused to sign the Leave of Absence form. Prior to the
2 COVID-19 vaccine mandate, Ms. Hart was participating in the PNNL tuition
3 reimbursement for a bachelor's degree, which she received in December 2020; her
4 remaining balance is \$12,000.18, which she would be required to repay as a condition
5 of her "voluntary resign[ation]." Tim Hart is a security police officer I with HMIS; he
6 received the first COVID-19 vaccination and refuses to obtain a second vaccination.
7
8 Mr. Hart also has natural antibodies.

9
10 143. Victor Hart is a senior labor relations specialist with HMIS; he has submitted a
11 religious exemption, accepted by HMIS, but was originally not provided an
12 accommodation.

13
14 144. Chamise Hartman is a pipefitter for WRPS she has submitted a religious
15 exemption, accepted by WRPS, but was originally not provided an accommodation.

16
17 145. Pamela Hartsock is a technical writer/editor with CPCCo; she has submitted a
18 religious exemption, accepted by HMIS, but was originally not provided an
19 accommodation. On November 10, 2021, Ms. Hartsock filed a complaint with the
20 Office of Federal Contract Compliance Programs ("OFCCP") and received
21 confirmation of the complaint by OFCCP on November 19, 2021. Ms. Hartsock's
22 OFCCP complaint was forwarded to the EEOC, which issued EEOC Charge No.: 551-
23 2022-01211 On November 29, 2021. Ms. Hartsock has received her "Notice of Right
24 to Sue" letter from the EEOC, dated January 10, 2022, under Title VII, the ADA, or
25

1 GINA.

2 146. Joshua Hatch is a firefighter/EMT with HMIS and was provided the
3 accommodation of weekly testing at his own time and expense. Ron Havens is a truck
4 driver with HMIS, he has submitted a religious exemption, accepted by HMIS, but was
5 originally not provided an accommodation. Timothy Hawkins works for Bechtel; he
6 submitted a religious exemption, accepted by Bechtel, but was originally denied
7 accommodation. He then received a temporary accommodation ending March 29,
8 2022. This revised accommodation requires Mr. Hawkins to present a negative Covid-
9 19 test result no older than 7 days to work in the office/onsite. The test must be presented
10 on a weekly basis for continued access, as any test over 7 days old is considered expired
11 and will prohibit access to the work area until new results are provided to his HR
12 representative. Mr. Hawkins is also expected to comply with all Covid-19 Safety
13 protocols outlined in the most current version of the WTP COVID-19 Fact Sheet
14 (24590-WTP-TB-SA-20-0001). This temporary accommodation will be re-evaluated
15 60 days after January 18, 2022, or if new DOE direction is provided, whichever comes
16 first.
17

18
19
20
21 147. Kory Hebdon is a security police officer with HMIS.

22
23 148. Larry Hebert is an electrical planner with WRPS, he has submitted a religious
24 exemption, accepted by WRPS, but was originally not provided an accommodation.

25 149. Katie Henderson is a contracting professional with PNNL she has submitted a

1 religious exemption, accepted by PNNL, but was originally not provided an
2 accommodation despite having teleworked since March 2019 and being willing to
3 provide a negative COVID-19 test prior to entering the workplace.

4
5 150. Joshua Herrick is a safety representative with WRPS, he has submitted a
6 religious exemption, accepted by WRPS, but was originally not provided an
7 accommodation. Mr. Herrick has natural immunity from having had COVID-19 and
8 has tested positive for COVID-19 antibodies.

9
10 151. Lee Holmes is a maintenance specialist with Bechtel he has submitted a
11 religious exemption, accepted by Bechtel, but was originally not provided an
12 accommodation.

13
14 152. Joy Houchin is a National Security Specialist with PNNL; she submitted a
15 medical exemption as she has a history of adverse vaccine reactions. Ms. Houchin's
16 request was accepted by PNNL, and received temporary accommodations including: 1)
17 temporary extension of the PNNL COVID-19 vaccine deadline; 2) temporary telework
18 from approved home location, and not permitted to be on PNNL campus or any other
19 PNNL location unless otherwise directed by her Group Leader; 3) in the event she must
20 come on site, Ms. Houchin must: a) have her Group Leader's pre-approval; b) have a
21 negative COVID-19 test result from a sanctioned testing site from a sample taken within
22 one day prior to arrival; c) comply with PNNL COVID-19 requirements for work onsite;
23
24 4) Ms. Houchin is permitted from traveling for business.
25

1 153. Marvin Huck is a teamster/driver with HMIS he has submitted a religious and
2 a medical exemption, accepted by HMIS, but was originally not provided an
3 accommodation. Mr. Huck has a positive COVID-19 antibody test from November 3,
4 2021.

5
6 154. Adam Huckleberry is a training specialist (instructor) at the Hanford Patrol
7 Training Facility with HMIS he has submitted a religious exemption, accepted by
8 HMIS, but was originally not provided an accommodation. Mr. Huckleberry has a
9 positive natural immunity as demonstrated by a positive COVID-19 antibody test and
10 is willing to pay for COVID-19 testing and wear a mask while on the worksite, and will
11 telework, as needed. HMIS denied Mr. Huckleberry's proposed accommodations.

12
13 155. Robin Hudson is a senior health physics technician with HLMI, she has
14 submitted a religious and a medical exemption, accepted by HLMI. She was offered a
15 60-day accommodation of weekly COVID-19 testing and mask usage.

16
17 156. James Ireland is a teamster with HMIS, he has submitted a religious exemption,
18 accepted by HMIS, but was originally not provided an accommodation.

19
20 157. Daniel Irish is a security police officer III and a sniper with HMIS, he has
21 submitted a religious exemption, accepted by HMIS, but was originally not provided an
22 accommodation.

23
24 158. J. I. is a firefighter, he has submitted a religious exemption, accepted by his
25 employer and received an accommodation of mask-wearing and weekly testing, and the

1 accommodation was subsequently revoked. J. has had and recovered from, COVID-19.

2 159. Eric Ison is an engineering manager with CPCCo, he has submitted a religious
3 exemption, accepted by CPCCo, but was originally not provided an accommodation.
4 Mr. Ison has a positive COVID-19 antibody test.
5

6 160. Rodger Iverson is a security police officer II for HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 161. Miguel Iztas is a security police officer for HMIS.

11 162. Bryce Jackson is a security police officer II for HMIS, he has submitted a
12 religious exemption, accepted by HMIS, but was originally not provided an
13 accommodation. Mr. Jackson has a positive COVID-19 antibody test.
14

15 163. Joel Jackson is a journeyman radiological technician for Bechtel, he has
16 submitted a religious exemption, accepted by Bechtel, but was originally not provided
17 an accommodation.
18

19 164. Raymond Jeffers is a fire protection coordinator with Bechtel, he has submitted
20 a religious exemption, accepted by Bechtel, but was originally not provided an
21 accommodation.
22

23 165. Gardiner Jeffrey is a security police officer with HMIS, he has submitted a
24 religious exemption, accepted by HMIS, but was originally not provided an
25 accommodation.

1 166. Johnathan Johns is a security police officer II with HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but was originally not provided an
3 accommodation.

4 167. Kami Johns is a shift operations manager with CPCCo, she has submitted a
5 religious exemption, accepted by CPCCo, but was originally not provided an
6 accommodation.
7

8 168. Timothy Johns is a security police officer III with HMIS, he has submitted a
9 religious exemption, accepted by HMIS, but was originally not provided an
10 accommodation.
11

12 169. Bonnie Johnson is a senior financial professional with WRPS, she has
13 submitted a religious exemption, accepted by WRPS, but was originally not provided
14 an accommodation.
15

16 170. Christopher Johnson is decommissioning and deactivation technician with
17 CPCCo, he has submitted a religious exemption, accepted by CPCCo, but was
18 originally not provided an accommodation.
19

20 171. James Jones is an electrical engineer, he has submitted a religious exemption,
21 but was originally not provided an accommodation. Mr. Jones had a positive COVID-
22 19 test on August 2, 2021.
23

24 172. Erika Jordan is a project coordinator with HLMI; she submitted a medical
25 exemption and was given a temporary accommodation.

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

4 174. Mark Kamberg is an environmental scientist with HMIS, he has submitted a
5 religious exemption, accepted by HMIS, but was initially provided no accommodation.
6 On November 19, 2021, HMIS offered a conditional accommodation, requiring Mr.
7 Kamberg to: (1) wear a mask at all times; (2) social distance and isolate to the maximum
8 extent practical; and (3) submit evidence of a weekly negative COVID-19 test prior to
9 the start of shift each week. This conditional accommodation is valid from January 18,
10 2022 through March 18, 2022.

11 175. Frank Kearney is a pipefitter with PNNL, he has submitted a religious
12 exemption, accepted by PNNL, but was originally not provided an accommodation.

13 176. Brian Keelean is a radiological control technician for HMIS, he has submitted
14 a religious exemption, accepted by HMIS, but was originally not provided an
15 accommodation.

16 177. Keith Keller is a project controls engineer, earned value management system
17 for WRPS, he has submitted a religious exemption, accepted by WRPS, but was
18 originally not provided an accommodation.

19 178. Mahlon Kerwick is a security police officer II with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but was originally not provided an
21 accommodation.

1 accommodation.

2 179. Ronald Knight is an instrument technician with HMIS, he has submitted a
3 religious exemption, accepted by HMIS, but was originally not provided an
4 accommodation.

5
6 180. Mark Knight is Teamster with HMIS, he has submitted a religious exemption,
7 accepted by HMIS, but was originally not provided an accommodation.

8
9 181. Karl Kohne is a lead crane operator with Intermech, a subcontractor to WRPS,
10 he has submitted a medical exemption, and Intermech determined they were unable to
11 grant his request and provided no accommodation. but was originally not provided an

12 182. Kerry Kost is a Technical Specialist with WRPS; he submitted a religious
13 exemption, on October 20, 2021, which was accepted by WRPS, and was provided
14 temporary accommodation on October 28, 2021, which required that Mr. Kost: 1)
15 identify to WRPS his primary telework location; 2) wear an appropriate mask when
16 working outside the telework location or directly interacting with others on business-
17 related matters; 2) be able to fulfill workplace requirements; 4) provide at least one
18 negative COVID-19 test before noon each Monday during his own personal time and
19 at his expense. These temporary accommodations were given for a time-period of 60
20 days starting December 8, 2021, through February 8, 2022, with expectation that re-
21 evaluation could occur at any point. The temporary accommodations were then
22 extended through March 18, 2022, in a re-evaluated vaccination and determination
23
24
25

1 letter. Mr. Kost sought an interactive process with WRPS' HR by seeking clarity on
2 the mandatory COVID-19 testing for unvaccinated individuals on November 1st, 4th,
3 30th, but received no response from WRPS. On December 1, 2021, Mr. Kost received
4 an extension of his temporary, conditional accommodation. On December 6, 2021, Mr.
5 Kost reasserted the same questions to WRPS' HR, noting the prior requests went
6 unanswered.
7

8 183. Thomas Krasner is a radiological control manager with CPCCo; he submitted
9 a religious exemption, accepted by CPCCo, but was provided no accommodation. He
10 was forced to choose early retirement due to accommodation denial for both him and
11 his wife.
12

13 184. Patrick Krzan is a canine handler with the Hanford Patrol, for HMIS, he is
14 vaccinated and opposes booster shots and is seeking accommodation from booster shots
15 with HMIS.
16

17 185. Dustin Lamm is a security police officer II with HMIS, he has not submitted a
18 religious exemption, and opposes the mandatory vaccination.
19

20 186. Ryan Lansing is a security police officer IIC with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but was originally not provided an
22 accommodation.
23

24 187. Gil Leal is a security police officer I with HMIS, he has submitted a religious
25 exemption, accepted by HMIS, but was originally not provided an accommodation.

1 188. Sharon Leinen is an operations support specialist with HMIS, she has submitted
2 a religious exemption, accepted by HMIS, has received a temporary, 60-day
3 accommodation.

4 189. Brianna Leitz is a senior health physics technician with WRPS, she has
5 submitted a religious exemption, accepted by WRPS, but was originally not provided
6 an accommodation.
7

8 190. Justin Lettau is a security police officer II with HMIS, he has submitted a
9 religious exemption, accepted by HMIS, but was originally not provided an
10 accommodation.
11

12 191. Carl Lindstrom is employed with Bechtel (WTCC), he has submitted a religious
13 exemption, accepted by Bechtel, but was originally not provided an accommodation.
14

15 192. Bradley Loosveldt is a work control planner with TerraGraphics, he has
16 submitted a religious exemption, accepted by TerraGraphics, but was originally not
17 provided an accommodation.
18

19 193. Corey Low is employed with DOE, he has submitted a religious exemption,
20 accepted by DOE, is awaiting a determination from DOE, and has been provided no
21 accommodation.
22

23 194. Oscar Lucatero is a security police officer II with HMIS, he has submitted a
24 religious exemption, accepted by HMIS, but was originally not provided an
25 accommodation.

1 195. Phillip Love is a security police officer with HMIS.

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

6 197. Ismael Magallanes is a security police officer with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation. Mr. Magallanes tested positive for COVID-19 in December 2020.
9

10 198. Matthew Malin is a Mechanical Work Planner with Bechtel (WTCC); he
11 submitted a religious exemption, accepted by Bechtel (WTCC), and was initially
12 provided no accommodation. On 11/23/2021, Mr. Malin received temporary approval
13 for a 60-day accommodation until March 18, 2022, under the following conditions: 1)
14 adherence to Contractor COVID-19 protocol requirements on site; 2) submit weekly
15 negative COVID-19 test results, from within the previous three calendar days, at the
16 beginning of his work week shift. Mr. Malin is responsible for the time and cost of
17 testing. The accommodation will be monitored and is subject to change at any time.
18

19 199. Jairo Martin is a security police officer with HMIS, he has submitted a religious
20 exemption, accepted by HMIS, but was originally not provided an accommodation.
21

22 200. David Martinez is a firefighter/EMT with HMIS, he has submitted a religious
23 exemption, accepted by HMIS, but was originally not provided an accommodation. Mr.
24 Martinez has positive COVID-19 antibodies.
25

1 201. Byron Massie is employed with CPCCo, he has submitted a religious
2 exemption, accepted by CPCCo, but was originally not provided an accommodation.

3 202. James Matte is an industrial hygienist with HMIS, he has submitted a religious
4 exemption, accepted by HMIS, but was originally not provided an accommodation.
5

6 203. Trent Maxwell is a security police officer with HMIS.

7 204. Sam McCarley is a security police officer III with HMIS, he has submitted a
8 religious exemption, accepted by HMIS, but was originally not provided an
9 accommodation.
10

11 205. Joe Meier is a journeyman carpenter with HMIS, he has submitted a religious
12 exemption, accepted by HMIS, but was originally not provided an accommodation. Mr.
13 Meier has tested positive for COVID-19 antibodies.
14

15 206. Norma Mendoza works for WRPS as a nuclear chemical operator, she has
16 submitted a religious exemption, accepted by WRPPS, and was initially provided no
17 accommodation (October 27, 2021). On November 4, 2021, Ms. Mendoza filed a
18 grievance with her union regarding the rejection of her requested accommodation. On
19 November 5, 2021, Ms. Mendoza filed a complaint with the EEOC November, and on
20 November 15, 2021, she was assigned Case No.: 551-2022-01241. On November 30,
21 2021, Ms. Mendoza was offered a temporary 60-day accommodation by WRPS from
22 January 18, 2022, through March 18, 2022 under the following conditions: 1) adherence
23 to Contractor COVID-19 protocol requirements on site; 2) submit weekly negative
24
25

1 COVID-19 test results, from within the previous three calendar days, at the beginning
2 of his work week shift.

3 207. Cory Meyer is an electrician with CPCCo, he has submitted a religious
4 exemption, accepted by CPCCo, but was originally not provided an accommodation.
5

6 208. Kyle Meyer is a radiological control first line supervisor with WRPS, he has
7 submitted a religious exemption, accepted by WRPS, but was originally not provided
8 an accommodation.
9

10 209. Kevin Milford is a maintenance specialist, IV with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but was originally not provided an
12 accommodation.
13

14 210. Darren Miller is a security police officer II with HMIS, he has submitted a
15 religious exemption, accepted by HMIS, but was originally not provided an
16 accommodation.
17

18 211. Benjamin Minter is a security police officer with HMIS, he has submitted a
19 religious exemption, accepted by HMIS, but was originally not provided an
20 accommodation.
21

22 212. Jeremy Miranda is a security police officer with HMIS, he has submitted a
23 religious exemption, accepted by HMIS, but was originally not provided an
24 accommodation.
25

213. Derik Moe is a security police officer with HMIS, he has submitted a religious

1 exemption, accepted by HMIS, but was originally not provided an accommodation.

2 214. Trent Mooney is a health physicist with WRPS, he has submitted a religious
3 exemption, which was accepted by WRPS, with no initial accommodation. Mr. Mooney
4 started an appeal on the decision to deny accommodation and notified his HR contact
5 that he would also be filing an EEOC complaint. He started the EEOC process and
6 received the EEOC Case No.: 551-2022-01191. He is still awaiting his interview.
7
8 WRPS extended temporary accommodation with mandatory requirements including
9 weekly testing to be performed during Mr. Mooney's own time and at his own expense.
10
11 He complied, under duress, to keep his job, but stated his concerns that testing
12 requirements were left open-ended, and he would not receive further instruction until
13 after agreeing to the accommodation.
14

15 215. Ryan Moore is a security police officer III with HMIS, he has submitted a
16 religious exemption, accepted by HMIS, but was originally not provided an
17 accommodation.
18

19 216. Joelle Moss is a hazardous materials specialist with WRPS, she has submitted
20 a religious exemption and has a predisposition to blood clots, accepted by WRPS, and
21 has been provided temporary accommodation.
22

23 217. Ryleigh Morrison is a health physics technician with CPCCo, she he has
24 submitted a religious exemption, accepted by CPCCo, but was originally not provided
25 an accommodation. She has had COVID-19.

1 218. Daniel Morrow is an electrical fieldwork supervisor with HMIS, he has
2 submitted a religious exemption, accepted by HMIS, but was originally not provided an
3 accommodation.

4 219. Allen Morris is employed with Bechtel (WTCC), he submitted a religious
5 exemption, accepted by WTCC, but was provided no accommodation.
6

7 220. Jennifer Mullen-Morris is a radiological control technician/health physics
8 technician with WRPS, he has submitted a religious exemption, accepted by WRPS, but
9 was originally not provided an accommodation.
10

11 221. Patrick Murphy is a security police officer I with HMIS who has been provided
12 no accommodation.

13 222. Paul Naef is employed by Northwest Power, a subcontractor to Bechtel, he has
14 submitted a religious exemption, accepted by Northwest Power, but was originally not
15 provided an accommodation.
16

17 223. Celeste Nelson is a firefighter/EMT with HMIS, she has submitted a religious
18 exemption, accepted by HMIS, but was originally not provided an accommodation.
19

20 224. Johnny Neer is a nuclear operator with CPCCo, he has submitted a religious
21 exemption, accepted by CPCCo, but was originally not provided an accommodation.
22

23 225. Tobin Neyens is a security police officer, K-9 with HMIS.

24 226. Marco Nicacio is employed with WRPS, he has submitted a religious
25 exemption, accepted by WRPS, but was originally not provided an accommodation.

1 227. Matt Nichol is a security police officer I with HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but was originally not provided an
3 accommodation.

4 228. Jeffery Nielson is a central shift manager with WRPS, he has submitted a
5 religious exemption, accepted by WRPS, but was originally not provided an
6 accommodation.
7

8 229. Ivan Nunez is a security police officer II with HMIS, he has submitted a
9 religious exemption, accepted by HMIS, but was originally not provided an
10 accommodation.
11

12 230. Juan Nunez is a security police officer with HMIS, he has submitted a religious
13 exemption, accepted by HMIS, but was originally not provided an accommodation.
14

15 231. Kelly O'Brien is an executive assistant with CPCCo, she has submitted a
16 religious exemption, accepted by CPCCo; she was offered accommodation, and
17 accepted most of the conditions, excepting weekly testing, which exceed current OSHA
18 standards.
19

20 232. Angel Ojeda is the office manager of Ojeda Business Ventures ("OBV"), a
21 construction subcontractor to CPCCo, HMIS, and WRPS seeking to apply COVID-19
22 antibodies or natural immunity to its workforce. CPCCo has threatened termination of
23 OBV contract if OBV fails to implement a COVID-19 vaccine mandate. 78% of OBV's
24 workforce has tested positive for COVID-19 antibodies, either through natural
25

1 immunity or vaccination.

2 233. Luis Ojeda is the office manager of Ojeda Business Ventures, a construction
3 subcontractor to CPCCo, HMIS, and WRPS seeking to apply COVID-19 antibodies or
4 natural immunity to its workforce. CPCCo has threatened termination of OBV contract
5 if OBV fails to implement a COVID-19 vaccine mandate.
6

7 234. William Olson is a facility manager at the 242A site with WRPS, he has
8 submitted a medical exemption, accepted by WRPS, and was provided a temporary (60
9 day) exemption, and is seeking a permanent exemption.
10

11 235. Mark Oslin is a security police officer with HMIS, he has not submitted an
12 exemption and has been offered no accommodations.
13

14 236. William Owen is a 1099 subcontractor as Project Controls Consultant to
15 AttainX, a subcontractor to DOE; he requested accommodation from AttainX and was
16 informed that as a 1099 subcontractor, he is not considered an AttainX employee, and
17 his firm (Owen Consulting) must certify its compliance with the mandate. As the owner
18 of Owen Consulting, he has granted his sole employee, William Owen, a religious
19 exemption with accommodation equivalent to the working arrangement in existence for
20 the last 19 months. His intent is to provide said certification when/if a final mandate
21 enforcement date for subcontractors is determined.
22
23

24 237. Patrick Paeschke is a journeyman electrician with PNNL, he has submitted a
25 religious exemption, accepted by PNNL, but was originally not provided an

1 accommodation.

2 238. Stuart Palmer is a security police officer with HMIS.

3 239. Nicholas Parker is a project controls associate with CPCCo, he has submitted a
4 religious exemption, accepted by CPCCo, and was provided a 60-day accommodation
5 that requires weekly COVID-19 testing at his expense and on his own time.
6

7 240. Jeffery David Parrish is a Journeyman Insulator for CPCCo, he submitted a
8 religious exemption, accepted by HMIS, but was provided no accommodation. Mr.
9 Parrish is aware of other CPCCo personnel working in similar physical circumstances
10 who have received accommodations. Mr. Parrish has taken advantage of the interactive
11 process available due to his unique position as a sole journeyman insulator for soil and
12 groundwater. He suggested creating accommodations that followed the current
13 guidelines that would allow him to complete his work duties.
14
15

16 241. Douglas Patnode is a safety trainer for Amentum; he submitted a religious
17 exemption, accepted by Amentum and originally denied accommodation. He was given
18 a revised, temporary accommodation ending on March 18, 2022.
19

20 242. but was originally not provided anKevin Patterson is a nuclear chemical
21 operator for CPCCo, he has submitted a religious exemption, accepted by CPCCo, but
22 was originally not provided an accommodation.
23

24 243. Brandon Patton is a security police officer with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 244. Zachary Pike is a decommissioning and deactivation technician with CPCCo,
3 he has submitted religious exemption, accepted by CPCCo, but was originally not
4 provided an accommodation.
5

6 245. Brian Pisca is a security police officer III with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 246. Jesse Potter is a security police officer III with HMIS, he has submitted a
11 religious exemption, accepted by HMIS, but was originally not provided an
12 accommodation.
13

14 247. Kelly Poynor is a security police officer II with HMIS who has submitted a
15 religious exemption, accepted by HMIS, but was originally not provided an
16 accommodation.
17

18 248. Adriana Elizabeth Prescott is a project manager for WRPS; she submitted a
19 religious exemption, accepted by WRPS but was provided no accommodation.

20 249. Bryan Raeder is a senior radiological control technician/health physics
21 technician for CPCCo, he has submitted a religious exemption, accepted by CPCCo,
22 but was originally not provided an accommodation.
23

24 250. Agapito Ramos is a security police officer II with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 251. Kevin Reberger is a work control planner with WRPS, he has submitted a
3 religious exemption, accepted by WRPS, but was originally provided no
4 accommodation, but on November 30, 2021, he was offered a 60-day accommodation,
5 effective January 18, 2022, exempting him from the COVID-19 vaccine mandate under
6 the following conditions: (1) Compliance with published CDC masking and physical
7 distancing guidance; (2) Furnishing WRPS with a minimum of one negative Covid-19
8 test each Monday before noon; and (3) Continued ability to fulfill applicable WRPS
9 workplace requirements. Mr. Reberger filed a complaint with the EEOC and was
10 assigned Case No.: 551-2022-01103.
11
12

13 252. Howard Reed is a fire protection engineer with Bechtel, he has submitted a
14 religious exemption, accepted by Bechtel, but was originally not provided an
15 accommodation.
16

17 253. Matthew Reed is a security police officer III with HMIS, he has submitted a
18 religious exemption, accepted by HMIS, but was originally not provided an
19 accommodation.
20

21 254. Robert Reynolds is a firefighter/EMT with HMIS, he has submitted a religious
22 exemption, accepted by HMIS, but was originally not provided an accommodation.
23

24 255. Ryan Richardson is a security police officer III with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 256. Ryder Richardson is a security police officer II with HMIS, he has submitted a
3 religious exemption, accepted by HMIS, but was originally not provided an
4 accommodation.

5
6 257. Greg Richter is a security police officer III with HMIS, he has submitted an
7 exemption from the COVID-19 vaccine, but he has been provided no accommodation.

8
9 258. Ryan Rickenbach is a design services manager with WRPS, he has submitted a
10 religious exemption, accepted by WRPS, but was originally not provided an
11 accommodation.

12
13 259. Ramon Riojas is a maintenance electrician with CPCCo, he has submitted a
14 religious exemption, accepted by CPCCo, but was originally not provided an
15 accommodation. Mr. Riojas has a positive COVID-19 antibody test.

16
17 260. Martin Rios Magana is a security police officer II with HMIS, he has submitted
18 a religious exemption, accepted by HMIS, but was originally not provided an
19 accommodation.

20
21 261. Michael Ripplinger is employed with Bechtel (WTCC), he has submitted a
22 religious exemption, accepted by Bechtel, but was originally not provided an
23 accommodation. He has two positive COVID-19 antibody tests.

24
25 262. Ernesto Rivas is a security police officer with HMIS, he has submitted a
religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 263. June Robinson was a senior industrial hygienist with PNNL. In August 2021,
3 PNNL management started requiring employees to attest to COVID-19 vaccination
4 status no later than September 10, 2021. Mrs. Robinson sought a medical
5 accommodation but received none as her medical provider feared losing her license. On
6 September 22, 2021, Mrs. submitted resigned from PNNL under duress with an
7 effective date of December 31, 2021. On October 27, 2021, Mrs. Robinson submitted
8 a request for religious accommodation, seeking an exemption from the COVID-19
9 vaccine mandate, using PNNL's Request for Accommodation Religious Exemption
10 from COVID-19 Vaccination form; PNNL denied this request. On November 16, 2021,
11 Mrs. Robinson appealed PNNL's denial of her request for religious exemption and
12 accommodation, noting the following family medical history associated with the
13 COVID-19 vaccine:
14

- 17 a. Her older brother suffers from chronic fatigue post-vaccination;
- 18 b. Three days after her husband received the vaccination, he was in the ER
19 for 8 hours and was diagnosed with diverticulitis;
- 20 c. Her youngest daughter was vaccinated in September 2021 and became ill
21 within hours of receiving the shot. Mrs. Robinson's daughter continues to have
22 pain that radiates down her arm; and
23
24

25 264. Her oldest daughter was vaccinated in the third trimester of her pregnancy, and

1 her daughter's infant has been diagnosed with gastroenteritis reflux disease. Staci
2 Rockey is an office administrator with Bechtel, LLC, she has submitted a religious
3 exemption, accepted by Bechtel, but was originally not provided an accommodation.
4

5 265. Gregory Rodenburg, II is a security police officer II with HMIS, he has
6 submitted a religious exemption, accepted by HMIS, but was originally not provided an
7 accommodation.
8

9 266. Manuel Rodriguez is a security police officer with HMIS, he has received the
10 first COVID-19 vaccine, but desires not to obtain the second vaccine as an infringement
11 of his bodily autonomy.
12

13 267. Jaime Rodriguez is a security police officer II with HMIS, has submitted an
14 exemption request, which was accepted by HMIS, but was originally not provided an
15 accommodation.
16

17 268. Lori Rogers is a health physics technician with WRPS, she has submitted a
18 religious exemption, accepted by WRPS, but was originally not provided an
19 accommodation.
20

21 269. Ryan Rosenthal is a security police officer with HMIS, he has submitted a
22 religious exemption, accepted by HMIS, but was originally not provided an
23 accommodation.
24

25 270. Leisha Rowe is a radiological control manager, she has submitted a religious
exemption, accepted by her employer, but was originally not provided an

1 accommodation.

2 271. Mischelle Russell is a senior radiological technician with CPCCo, she has
3 submitted a religious exemption, accepted by CPCCo, but was originally not provided
4 an accommodation.
5

6 272. Jamison Saddler is a security patrol officer I with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 273. Kyle Saltz is security police officer II with HMIS, he has submitted a religious
11 exemption, accepted by HMIS, but was originally not provided an accommodation.

12 274. William Samson is a chemical operator with CPCCo, he has submitted a
13 religious exemption, accepted by CPCCo, but was originally not provided an
14 accommodation.
15

16 275. Oscar Sanchez is a security police officer with HMIS, he has submitted a
17 religious exemption, accepted by HMIS, but was originally not provided an
18 accommodation.
19

20 276. Matthew Sanders is a quality assurance engineer with HMIS, he has submitted
21 a religious exemption, accepted by HMIS, and has been provided accommodation of
22 weekly testing and work from home in a different job position.
23

24 277. Joel Savage is a paramedic/firefighter with HMIS, he has submitted a religious
25 exemption, accepted by HMIS, but was originally not provided an accommodation. Mr.

1 Savage has a positive COVID-19 antibody test and is willing to adhere to social distance
2 and mask-wearing requirements as an accommodation.

3 278. Rick Schieffer is a radiation protection supervisor with HMIS, he has submitted
4 a religious exemption, accepted by HMIS, but was originally not provided an
5 accommodation.
6

7 279. Jacob Schmid is a firefighter/EMT with HMIS, he has submitted a religious
8 exemption, accepted by HMIS, but was originally not provided an accommodation.
9

10 280. Jessica Schuette is a project specialist/buyer technical representative with
11 WRPS, she has submitted a religious exemption, accepted by WRPS, was initially
12 provided no accommodation, but has recently received a temporary teleworking
13 accommodation.
14

15 281. John Schuette is an engineering manager with Bechtel (WTCC project), he has
16 submitted a religious exemption, accepted by Bechtel, and has been provided a
17 temporary accommodation of teleworking until February 2022.
18

19 282. Devin Shelby is a security police officer II with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but was originally not provided an
21 accommodation.
22

23 283. Jeff Short is a firefighter with HMIS, he has submitted a religious exemption,
24 accepted by HMIS, but was originally not provided an accommodation. Mr. Short has
25 a positive COVID-19 antibody test and is willing to adhere to wearing a mask and

1 weekly testing.

2 284. Steve Short is an engineering supervisor with Bechtel, he has submitted a
3 religious exemption, accepted by Bechtel, and has been provided temporary
4 accommodation teleworking until February 2022.

5
6 285. Thomas Sichler is a health physicist with CPCCo, he has submitted a religious
7 exemption, accepted by CPCCo, but was originally not provided an accommodation.
8 Mr. Sichler declared that he is aware of CPCCo accommodating similarly situated
9 individuals.
10

11 286. Gidget Silvers is a health physics technician lead with WRPS, she has
12 submitted a religious exemption, accepted by WRPS, but was originally not provided
13 an accommodation.
14

15 287. Stephen Simmons is a preventative maintenance planner with Bechtel.

16 288. Andrea Sims is a clerk, III with WRPS, she has submitted a religious
17 exemption, accepted by WRPS, but was originally not provided an accommodation.
18 Ms. Sims has a positive COVID-19 antibody test and is willing to adhere to social
19 distancing, wearing a mask, and regular testing.
20

21 289. Daniel Sims is a security police officer III with HMIS, he has submitted a
22 religious exemption, accepted by HMIS, but was originally not provided an
23 accommodation.
24

25 290. Edward Sinclair is employed as safety and health programs specialist with

1 WRPS.

2 291. John Sisemore is a sheet metal worker with Bechtel (WTCC project), he has
3 submitted a religious exemption, accepted by Bechtel, but was originally not provided
4 an accommodation. Mr. Sisemore has a positive COVID-19 antibody test and is willing
5 to wear a mask and test weekly.
6

7 292. Cathy Slape is employed with HMIS and has health issues, she he has submitted
8 a religious exemption, accepted by HMIS, but was originally not provided an
9 accommodation.
10

11 293. Gabe Slape is employed with CPCCo, he has submitted a religious exemption,
12 accepted by CPCCo, but was originally not provided an accommodation.
13

14 294. Derek Small is a security police officer III with HMIS, he has submitted a
15 religious exemption, accepted by HMIS, but was originally not provided an
16 accommodation.
17

18 295. Gregory Smith is a teamster/truck driver for WRPS, he has submitted a
19 religious exemption, accepted by WRPS, but was originally not provided an
20 accommodation.
21

22 296. Shad Smith is a steamfitter with HMIS, he has submitted a religious exemption,
23 accepted by HMIS, but was originally not provided an accommodation.
24

25 297. Stephen Smith is an electrical engineer with WRPS, he has submitted a
religious exemption, accepted by WRPS, but was originally not provided an

1 accommodation.

2 298. William Smoot is a health physicist with WRPS, he has submitted a religious
3 exemption, accepted by WRPS, but was originally not provided an accommodation.

4 299. Todd Sommerville is a maintenance material specialist with WRPS, he has
5 submitted a religious exemption, accepted by WRPS, but he has been provided no
6 accommodation.
7

8 300. Krisheena Stajduhar is a Procurement Specialist with WRPS; she submitted a
9 religious exemption, accepted by WRPS, and was provided teleworking
10 accommodations until April 2022, that require weekly COVID-19 testing, which exceed
11 the OSHA standards. In December 2022, WRPS decided to change the 100% telework
12 accommodation to a 50/50 accommodation starting January 4, 2022 as their “return to
13 work” initiative. Ms. Stajduhar then sought an exemption and accommodation
14 requesting 100% telework as her symptoms of chronic health conditions have improved
15 significantly since she began 100% telework. Her physician wrote a letter, which she
16 submitted along with an ADA exemption letter to PNNL. This request was denied, and
17 she was told she needed a letter from the doctor explaining her health history in depth
18 and how it affects her ability to perform her duties. Ms. Stajduhar is in the process of
19 obtaining the appropriate information from her physician to fulfill the requirements for
20 an ADA exemption to continue 100% telework.
21
22
23
24

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

1 exemption, accepted by CPCCo, but was originally not provided an accommodation.

2 302. Kirsten Stanley is a stock and tool crib attendant for CPCCo, she has submitted
3 a religious exemption, accepted by CPCCo, but was originally not provided an
4 accommodation.

5
6 303. Daniel Stenkamp is an electrical engineer/design authority for WRPS; he
7 submitted a religious exemption, accepted by WRPS, but was provided no
8 accommodation.

9
10 304. David Storaci is an operations specialist III with Bechtel, he has submitted a
11 religious exemption, accepted by Bechtel, but was originally not provided an
12 accommodation.

13
14 305. Joseph Stowman is a custodian with HMIS, he has submitted a religious
15 exemption, accepted by HMIS, but was originally not provided an accommodation.

16 306. William Sullivan is employed with WRPS, he has submitted a religious
17 exemption, accepted by HMIS, but was originally not provided an accommodation. Mr.
18 Sullivan also has health issues, including cysts on his kidneys.

19
20 307. Carl Sutherland is a security patrol officer II with HMIS, he has submitted a
21 religious exemption, accepted by HMIS, but was originally not provided an
22 accommodation.

23
24 308. April Swofford is a parts manager with Veolia a subcontractor to CPCCo, she
25 has submitted a religious exemption, accepted by Veolia, but was originally not

1 provided an accommodation at CPCCo direction.

2 309. Roger W. Szelmezcza is an environmental specialist with WRPS seeking a
3 religious accommodation, accepted by WRPS, but was originally not provided an
4 accommodation.
5

6 310. Linda Thomas is a chemist with PNNL, she is seeking a religious and a medical
7 accommodation, accepted by PNNL, but she has been provided no accommodation.
8

9 311. James Thorne is a work control planner with WRPS seeking a religious
10 accommodation, accepted by WRPS, but he has been provided no accommodation.

11 312. Andrew Tucker is a firefighter/EMT with HMIS, he received the COVID-19
12 vaccine in August and September of 2021, and he did not apply for an exemption.
13

14 313. Daniel Turlington is an environmental compliance officer with CPCCo,
15 seeking a religious accommodation; when Mr. Turlington applied for the
16 accommodation in October 2021, he was not afforded an accommodation. On
17 November 30, 2021, CPCCO offered Mr. Turlington a temporary 60-day
18 accommodation effective January 18, 2022, under the following conditions: (1)
19 Compliance with published CDC masking and physical distancing guidance; (2)
20 Providing CPCCo with a minimum of one negative Covid-19 test each Monday before
21 noon; and (3) Continued ability to fulfill applicable CPCCo workplace requirements
22 (e.g. availability for random drug screening). Mr. Turlington accepted these conditions
23 on December 6, 2021. He was suspended without pay for four weeks on December 9,
24
25

1 2021 for an alleged unrelated matter.

2 314. Amanda Tyler is a civil engineer with WRPS; she submitted a religious
3 accommodation in October 2021, which was, accepted by WRPS, and was initially
4 provided no accommodation. On November 30, 2021, CPC WRPS CO offered Mrs.
5 Tyler a temporary 60-day accommodation effective January 18, 2022, under the
6 following conditions: (1) Compliance with published CDC masking and physical
7 distancing guidance; (2) Providing WRPS with a minimum of one negative Covid-19
8 test each Monday before noon; and (3) Continued ability to fulfill applicable WRPS
9 workplace requirements (e.g. availability for random drug screening). Mrs. Tyler filed
10 a complaint with the EEOC and was issued Case No.: 551-2022-01089.but was
11 originally not provided an

12 315. Aric Tyler is a mechanical engineer with CPCCo, he submitted a religious
13 accommodation in October 2021, which was, accepted by CPCCo, and was initially
14 provided no accommodation (October 26 and 28, 2021). On November 30, 2021,
15 CPCCO offered Mr. Tyler a temporary 60-day accommodation effective January 18,
16 2022, under the following conditions: (1) Compliance with published CDC masking
17 and physical distancing guidance; (2) Providing CPCCo with a minimum of one
18 negative Covid-19 test each Monday before noon; and (3) Continued ability to fulfill
19 applicable CPCCo workplace requirements (e.g. availability for random drug
20 screening). On December 8, 2021, Mr. Tyler filed a complaint with the EEOC and was

1 issued Case No.: 551-2022-00930.

2 316. Eva Upchurch is a Supply Chain Administrator with CPCCo; she submitted a
3 religious exemption, accepted by CPCCo, and received a temporary, 60-day
4 accommodation, which includes weekly testing on her own personal time and funds,
5 teleworking, and not being able to physically go to the office. These accommodations
6 are open to re-evaluation after 60 days.
7

8 317. Brandt Urwin is a fieldwork supervisor seeking a religious accommodation.
9

10 318. Jeff VanDerPol is a nuclear safety specialist with DOE, he has submitted a
11 religious accommodation, accepted by DOE, but was originally not provided an
12 accommodation.
13

14 319. Angela Villarreal is an Operations Support Specialist with HMIS, she has
15 submitted a religious exemption, accepted by HMIS, but was originally not provided an
16 accommodation despite having teleworked as needed since August 2020, having a
17 positive antibody test, and her willingness to social distance and wear a mask and/or test
18 regularly.
19

20 320. Aaron Webber is a security police officer III with HMIS, has sought the
21 accommodation to maintain the status quo with mask-wearing and social distancing,
22 and has had no accommodation.
23

24 321. Ryan Weideman is a security police officer II with HMIS, he has submitted a
25 religious exemption, accepted by HMIS, but was originally not provided an

1 accommodation.

2 322. William Weisberg is a project controls specialist with Corporate Allocation
3 Service/Katami Government Services, he has submitted a religious exemption, accepted
4 by Katami, and was granted the accommodation to complete weekly or bi-weekly
5 testing.
6

7 323. Shawn D. Welker is a captain with Hanford Patrol, whose employer is HMIS,
8 he has submitted a religious exemption, accepted by HMIS, but was initially offered no
9 accommodation. Mr. Welker contacted HR, attempting to engage in an “interactive
10 process” with regards to a potential accommodation for retaining employment with
11 Hanford Patrol under HMIS. HMIS offered revised temporary accommodation to Mr.
12 Welker with the conditions that: 1) he wear a mask at all times except when eating,
13 drinking or as allowed to perform work; 2) he social distance and isolate to the
14 maximum extent possible; 3) he submits weekly negative COVID-19 test results to his
15 manager upon start of shift each week, or as otherwise directed by HMIS, beginning
16 January 18, 2022. Mr. Welker must conduct his tests during his personal time and at
17 his expense. Mr. Welker started the EEOC process due to lack of communication from
18 HR, as they failed to respond to the many questions he asked to better inform himself
19 prior to accepting accommodations. He received the EEOC (INQUIRY) NUMBER:
20 551-2022-01177. He has yet to be able to schedule his interview and is awaiting the
21 opportunity
22
23
24
25

1 324. Hans Wellenbrock is a communications specialist with CPCCo he has
2 submitted a religious exemption, accepted by CPCCo. He was granted a temporary
3 accommodation for 60 days (February 2022), which requires weekly COVID-19
4 testing, exceeding the OSHA standards.
5

6 325. Trent Wellner is a security police officer III with HMIS, he has submitted a
7 religious exemption, accepted by HMIS, but was originally not provided an
8 accommodation.
9

10 326. Tobin Wells is a senior radiology technician seeking religious accommodation.

11 327. Kristina Whalen is an operation support specialist with CPCCo, she has
12 submitted a religious exemption, accepted by CPCCo, but was originally not provided
13 an accommodation. Ms. Whalen has filed a complaint with the EEOC and is awaiting
14 an appointment to conduct an interview.
15

16 328. Daniel Wharton is an is an electrician with PNNL, he has submitted a religious
17 exemption, accepted by PNNL, but was originally not provided an accommodation.
18

19 329. Nathaniel Wick is a security police officer III with HMIS, he has submitted a
20 religious exemption, accepted by HMIS, but was originally not provided an
21 accommodation.
22

23 330. Wendy Wilde is a work control PM planner with CPCCo, she has submitted a
24 religious exemption, accepted by CPCCo, but was originally not provided an
25 accommodation.

1 331. Keaton Williams is a security police officer with HMIS, he has submitted a
2 religious exemption, accepted by HMIS, but was originally not provided an
3 accommodation.

4 332. Logan Williams is an industrial hygiene technician for WRPS, he has submitted
5 a religious and medical exemption as he was hospitalized from COVID-19 in September
6 2021, remains on oxygen, and is still recovering from COVID-19. On October 15, 2021,
7 Mr. Williams' doctor provided a note, stating that he is a "poor candidate" for the
8 COVID-19 vaccine. His exemption was accepted by WRPS, but Mr. Williams has been
9 provided no accommodation.
10
11

12 333. Brian Williamson is a Health Physicist with WRPS and was initially provided
13 no accommodation despite his willingness to social distance and wear a mask.
14

15 334. Nathaniel Wilson is a project engineer with WRPS; he submitted a religious
16 exemption, accepted by WRPS, and was initially provided no accommodation. Mr.
17 Wilson received a COVID-19 Vaccination Exemption Accommodation Revision letter
18 offering hi a temporary 60-day accommodation that permits him to continue his present
19 work assignment, subject to the following conditions: 1) he must comply with CDC
20 guidance for masking; 2) he must comply with CDC guidance for physical distancing;
21 3) he must provide a minimum of one negative COVID-19 test to his manager, taken
22 within 72 hours prior to start of shift or scheduled start time, which he must pay for and
23 perform during his own time; 4) he must be able to fulfill applicable WRPS workplace
24
25

1 requirements. The temporary accommodation begins on January 18, 2022 and lasts
2 until March 18, 2022, at which time the accommodation will be re-evaluated. But was
3 originally not provided an

4 335. Robert Wood is project manager with WRPS, he has submitted a religious
5 exemption, accepted by WRPS, but was originally not provided an accommodation.
6

7 336. Paul Wulff is a janitor at the Hanford Site he has submitted a religious
8 exemption, accepted by employer, but was originally not provided an accommodation.
9

10 Mr. Wulff has a positive COVID-19 antibody test.

11 337. Christopher Yaroch is a Physical Security Specialist with DOE; he submitted a
12 religious exemption and has yet to hear back if he will be granted an accommodation
13 despite his willingness to continue teleworking, as he has successfully done so since
14 March 23, 2020.
15

16 338. Tim York is an electrician with HMIS, he has submitted a religious exemption,
17 accepted by HMIS, but was originally not provided an accommodation. Mr. York has a
18 positive COVID-19 antibody test.
19

20 339. Robert Zane is an industrial hygienist with CPCCo, he has submitted a religious
21 exemption, accepted by CPCCo, but was originally not provided an accommodation.
22

23 **FACTS**

24 340. On September 9, 2021, President Joseph R. Biden issued Executive Order
25 14042 requiring vaccination of all employees of federal contractors.

1 341. On September 9, 2021, President Joseph R. Biden issued Executive Order
2 14043 requiring vaccination of all federal employees.

3 342. On September 15, 2021, Defendants enacted a workplace mandate, requiring
4 that by December 8, 2021, all workers either become fully vaccinated against COVID-
5 19 or receive a workplace exemption from the requirement to become fully listed.

6 343. Plaintiffs filed this action on November 18, 2021 to allow as much time as
7 possible to receive religious or medical accommodations, exempting each from the
8 COVID-19 vaccine mandate, while taking the action as promptly as possible.
9

10 344. Some Plaintiffs, such as Pamela Hartsock, have completed the administrative
11 remedy with the EEOC and have received a Notice of Right to Sue letter. Others have
12 filed with the EEOC and have received a Case Number. Others are still awaiting a
13 Case Number.
14

15 345. Several United States Federal District Courts have ruled that Executive Order
16 14042 exceeds FPASA.
17

18 346. On November 5, 2021, the Occupational Safety and Health Administration
19 promulgated an Emergency Temporary Standard, published at 29 CFR 1910, Subpart
20 U (the "ETS").
21

22 347. The ETS is significantly less restrictive than the Executive Orders as it provides
23 exceptions to the vaccination requirements for remote and outdoor and also allows for
24 unvaccinated employees to mask and test. The Executive Orders allow for no such
25

1 exemptions.

2 348. On January 13, 2022, the United States Supreme Court in *National Federation*
3 *of Independent Business* ruled that the OSHA ETS is not justified as the ETS:

4 a. Is not plainly authorized by the Occupational Safety and Health Act of 1970.

5
6 *National Federation of Independent Business (per curiam)* (slip op., at 6);

7 b. That COVID-19 is not an occupational hazard. *Id.* at 7; and

8 c. That “targeted regulations are plainly permissible.” *Id.*

9
10 349. The DOE and its several contractors, Bechtel, Battelle Memorial Institute’s
11 Pacific Northwest National Laboratory, Hanford Mission Integrated Solutions, LLC,
12 Hanford Laboratories Management, HPM Corporation, and Washington River
13 Protection Solutions, refuse to provide religious or medical accommodations in many
14 cases, and in the few cases where such accommodations are offered, they are transitory
15 in nature and/or subject to withdrawal or unreasonable conditions. These enforcement
16 actions regarding the Executive Orders arbitrarily demanded that Plaintiffs and other
17 staff of the Defendant Employers become vaccinated by December 8, 2021 and have
18 since been extended to January 18, 2022.

19
20
21 350. While accepting every single exemption as sincere, Defendant entities have
22 accommodated very few, if any, exemption seeking personnel. The denials and/or
23 conditions imposed upon accommodations have been arbitrary and capricious.

24
25 351. Some similarly situated personnel employed by other DOE contractors

1 performing work at the Hanford Site are receiving religious and medical exemptions,
2 and reasonable accommodation, to the same vaccination requirement. Likewise, other
3 similarly situated personnel within the community (local police and firefighting
4 personnel) are not subjected to a COVID-19 vaccination requirement.
5

6 352. Defendants' decisions regarding vaccine mandates have been unequally
7 applied and are arbitrary and capricious where some DOE Hanford contractors and/or
8 employees are not subject to the same requirements. In fact, some Defendants have
9 arbitrarily granted certain Plaintiff accommodation requests while denying similarly
10 situated Plaintiff requests for accommodation.
11

12 353. Despite months of contact tracing, as evidenced by a November 5, 2021
13 response to a FOIA request, the CDC possesses no record or other legally cognizable
14 evidence of individuals with natural immunity becoming reinfected and infecting
15 another individual.
16

17 354. The failure of Defendants to recognize and make rational differentiation
18 regarding Plaintiffs who can demonstrate natural immunity is arbitrary and capricious.
19

20 355. Defendants' enforcement of the Executive Orders will seriously unnecessarily
21 endanger the lives, health and welfare of the citizens of Benton County and surrounding
22 areas as the Hanford Guard Unit will be significantly understaffed, resulting in limited
23 security and protection of the Hanford Site and the general public.
24

25 356. Defendants' actions to enforce the Executive Orders are further demonstrated

1 to be arbitrary, capricious, and intended to be discriminatory against protected classes,
2 where the mandate applies to individuals who telework or work entirely outdoors.

3 357. Defendants' actions to enforce the Executive Orders are further arbitrary and
4 capricious where some Plaintiffs could be accommodated by utilizing PPE and testing,
5 in a manner consistent with less stringent OSHA regulations (not declared
6 unconstitutional).
7

8 358. In addition to risking public safety, wrongful termination of these individuals
9 could expose the United States and its contractors to millions of dollars in liability for
10 lost wages and pensions, along with other damages, including loss of benefits.
11

12 359. On September 30, 2021, DOE's Head of Contracting Activity for the Office of
13 Environmental Management, Angela Whatmore issued a Memorandum, which
14 monetarily incentivized DOE contractors to vaccinate their workforce as much as
15 possible. The Memorandum:
16

17 a. Directed DOE "Contracting Officers to execute unilateral modifications to the
18 Performance Evaluation Measurement Plans and Award Fee Plans by October 8, 2021;"
19

20 b. Authorized Contracting Officers to "indicate to the contractor that they may
21 propose a 50/50 fee sharing option of \$1000 per worker for this metric;"
22

23 c. Allowed these incentives to "be added to the safety and health subjective criteria,
24 or as a stand-alone metric;" and

25 d. Provided that the "Contractor Performance Assessment Reporting System

1 (CPARS) shall accurately reflect the contractor’s performance in FY21 and FY22
2 regarding safety and health of its workforce as it relates to proactive initiatives to stop
3 the spread of COVID-19, including promoting vaccination of the workforce.”

4 360. The Defendant Employers have, in all material respects, adopted these
5 government-imposed requirements in regard to their workforces, including the
6 Plaintiffs. As a practical matter, the Defendant Employers were required to implement
7 the commands of the Memorandum from DOE’s Head of Contracting Activity for the
8 Office of Environmental Management.
9

10
11 361. These material elements of the Defendant Employers’ enforcement activities
12 regarding the Executive Orders rendered the action of the Defendant Employers to be
13 governmental action.
14

15 **FIRST CAUSE OF ACTION**

16 **Free Exercise of Religion (First Amendment of the United States Constitution**
17 **and the Religious Freedom Restoration Act of 1993 [42 U.S.C. § 2000bb, et. seq.]**
18 **and 42 U.S.C. § 1983)**
19

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

21 363. Plaintiffs with sincere religious beliefs, which prohibit their taking the
22 vaccination, have had those beliefs accepted as sincere by their respective employers.
23

24 364. Individuals determining COVID-19 exemption requests are effectively
25 religious discrimination, persecution and denial of free exercise of religion, by refusing

1 to accommodate the overwhelming majority of accepted religious objections.

2 365. Each employer was required in carrying out the purported compelling purpose
3 of the Executive Orders to make reasonable accommodations in a consistent and
4 common-sense manner which, among other things, could include following the less
5 restrictive OSHA standards (themselves now declared unconstitutional) e.g., by
6 requiring testing for COVID-19 and mask-wearing for individuals working indoors.
7

8 366. Defendants could also take temperatures and continue to require social distance
9 in many circumstances.
10

11 367. As indicated above, some of the Plaintiffs have had COVID-19 and possess
12 natural immunity, such natural immunity should be considered – those Plaintiffs could
13 be accommodated by the Defendants doing nothing and still achieve their purported
14 compelling purpose of the Executive Orders of protecting against the spread of COVID-
15 19. Since this case was initially filed, new evidence has disclosed that the required
16 vaccines do not reduce the spread of COVID-19 to the extent asserted by the
17 Government Defendants in connection with the Executive Orders. This is a further
18 changed circumstance which renders enforcement of the Executive Orders arbitrary and
19 capricious.
20
21

22 368. Regardless, Plaintiffs' individual employers are forcing Plaintiffs to choose
23 between their sincerely held religious beliefs and maintaining employment due to their
24 individual employer's approach to religious accommodations to the one-size-fits-all
25

1 COVID-19 vaccine requirements.

2 369. Infringement on Plaintiffs’ Free Exercise rights, including the Religious
3 Freedom Restoration Act (“RFRA”) requires the application of strict scrutiny to any
4 denial of free exercise. *Tanzin v. Tanvir*, 141 S. Ct. 486 (2020) (Permitting “litigants,
5 when appropriate, to obtain money damages against federal officials in their individual
6 capacities.” *Id.* at 493)). Executive Order 14042, and actions taken by Defendants
7 Vance and each Contractor-Defendant, coerces Plaintiffs into either violating their
8 sincerely held religious beliefs or losing their livelihoods. This enforcement mechanism
9 of the Executive Orders presents an egregious, not a small or incidental burden on the
10 exercise of their sincerely held religious beliefs.

11 370. RFRA, defines the term “government” to include “a branch, department,
12 agency, instrumentality, and official (or other person acting under color of law) of the
13 United States, or of a covered entity.” All named Defendants are either representatives
14 acting under color of law or legally constitute an instrumentality of the United States
15 government. See: 42 U.S.C. 2000bb(b)(1)-(2).

16 **SECOND CAUSE OF ACTION**

17 **Violation of Equal Protection, 14th Amendment of the United States Constitution**
18 **and 42 USC § 1983**

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

20 372. The equal protection clause of the Fourteenth Amendment to the U.S.

1 Constitution requires the government to treat an individual in the same manner as others
2 in similar conditions and circumstances.

3 373. The Fourteenth Amendment further recognizes and guarantees fundamental
4 rights and liberty interests of personal autonomy and bodily integrity.
5

6 374. Some DOE Hanford contractors are allowing accommodations.

7 375. The Executive Orders are significantly more restrictive than the ETS.

8 376. As indicated above, some of the Plaintiffs have had COVID-19 and possess
9 natural immunity, such natural immunity should be considered – those Plaintiffs could
10 be accommodated by Defendants doing nothing and still achieving their purported
11 compelling purpose of the Executive Orders.
12

13 377. Plaintiffs are entitled to equal protection under the law; they are not receiving
14 it. More specifically, contractor-employed Plaintiffs are not receiving equal protection
15 by their individual employers through the contractual obligations flowing from
16 Executive Order 14042, and DOE-employed Plaintiffs’ equal protections are directly
17 violated by DOE through its enactment of Executive Order 14043.
18
19

20 **THIRD CAUSE OF ACTION**

21 **Violation of the Americans with Disabilities Act (42 U.S.C. 12101, *et. seq.*) and**
22 **42 USC § 1983**
23

24 378. Plaintiffs incorporate each of the Complaint allegations stated above herein.

25 379. Some Plaintiffs have medical conditions that prohibit them from receiving the

1 COVID-19 vaccine.

2 380. Mr. Clancy’s medical professional provided a letter that stated he should be
3 exempted from the COVID-19 vaccination due to prior adverse reactions to
4 vaccinations.

5
6 381. Mr. Clancy’s history of adverse vaccine reactions makes it medically
7 unreasonable, and possibility fatal, for him to take the vaccine.

8 382. Mr. Clancy’s medical history constitutes a disability under the ADA.

9
10 383. Mr. Clancy is being terminated despite his known disability, which could be
11 accommodated without undue hardship if his employer exempted him from the
12 COVID-19 vaccination and provided alternative accommodations.

13 384. Mr. Clancy is entitled to a reasonable accommodation under the ADA.

14
15 385. Likewise, Mr. Logan Williams, who remains on oxygen from a recent battle
16 with COVID-19, has a note from his doctor stating that Mr. Williams is a candidate for
17 a COVID-19 vaccination exemption. Mr. Williams’ employer has failed to respect his
18 doctor’s professional opinion and maintains the mandate that Mr. Williams become
19 vaccinated against COVID-19.

20
21 386. Several other Plaintiffs are in a similar situation, where a Plaintiff’s own
22 medical professional has advised against the COVID-19 vaccine due to an individual’s
23 health condition and/or historical adverse reactions to vaccinations.

24
25 387. Pamela Hartsock has received a “Notice of Right to Sue” letter from the EEOC,

1 dated January 10, 2022, under Title VII, the ADA, or GINA. Ms. Hartsock, completing
2 the administrative process.

3 388. Plaintiffs' individual employers are forcing Plaintiffs to choose between their
4 physician's advice as to the appropriateness of a vaccine and maintaining employment
5 due to their individual employer's approach to medical accommodations to the one-
6 size-fits-all COVID-19 vaccine requirements.

7
8 389. Notwithstanding the uncontested advice of these individuals' medical
9 professionals against the COVID-19 vaccine, Defendants mandate the vaccine to retain
10 employment.
11

12 **FOURTH CAUSE OF ACTION**

13 **Wrongful Termination**

14
15 390. Plaintiffs incorporate each of the Complaint allegations stated above herein.

16 391. Absent declaratory and injunctive relief, the Plaintiffs will be wrongfully
17 terminated in violation of Title VII of the Civil Rights Act and Washington Law Against
18 Discrimination. Absent declaratory or injunctive relief, Plaintiffs will each,
19 individually, have been damaged in an amount to be determined at trial.
20

21 392. Several Plaintiffs have been placed on Administrative Leave Without Pay,
22 some have been terminated, and others have been forcibly moved to another position
23 (demoted).
24

25 393. The pending claims under Washington law are substantially related to the

1 federal claims asserted in this action.

2 **FIFTH CAUSE OF ACTION**

3 **Breach of Contract**

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

5 395. There exists a binding contract relationship between each Plaintiff and his or
6 her individual employer.

7 396. Each Plaintiff has an independent property right in their pension.

8 397. Defendants have made it clear they intend to breach each Plaintiffs' contract
9 with the respective Defendant.

10 398. Defendants' actions constitute breaches of contract, or anticipatory
11 repudiations of contract, and, as to the arbitrary and capricious enforcement of the
12 Executive Orders, constitutes a taking of property and rights without due process.

13 399. Absent declaratory and/or injunctive relief, Plaintiffs who have not yet been
14 suspended or terminated will each, individually, have been damaged in an amount to be
15 determined at trial. As to plaintiffs who have been suspended or terminated, or who
16 have resigned under the coercion of the Defendants' actions to enforce the Executive
17 Orders, they have already been damaged in an amount to be proven at trial.

18 **SIXTH CAUSE OF ACTION**

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

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

1 401. Defendants engaged in extreme and outrageous conduct toward Plaintiffs.

2 402. The complained of conduct was intentional and/or reckless.

3 403. The complained of conduct actually resulted in severe emotional distress to
4 Plaintiffs.

5
6 404. To the extent Plaintiffs have not already been injured, absent declaratory or
7 injunctive relief, Plaintiffs will each, individually, have been damaged in an amount to
8 be determined at trial.

9
10 **SEVENTH CAUSE OF ACTION**

11 **Infringement of Privacy Rights and Violation of 42 USC § 1983**

12 405. Plaintiffs incorporate each of the Complaint allegations stated above herein.

13 406. Plaintiffs have a privacy right in their religious practice.

14
15 407. Plaintiffs have a privacy right in their bodily integrity and a corresponding right
16 to bodily integrity and sovereignty over their own bodies. See: *Griswold v. Connecticut*,
17 381 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); *Roe v. Wade*, 410 U.S.
18 11 (1973); *Planned Parenthood v. Casey*, 505 U.S. 833 (1992); and *Lawrence v. Texas*,
19 539 U.S. 558 (2003). Plaintiffs also have a right to refuse to accept medical treatment
20 even when their own lives might be in jeopardy. *Cruzan v. Director Missouri Dept. of*
21 *Health*, 497 U.S. 261(1990) and *Riggins v. Nevada*, 504 U.S. 127 (1992).
22

23
24 408. Both rights have been violated in the way that Plaintiffs' sincere beliefs and
25 medical concerns have been challenged and disparaged by Defendants.

1 409. In enforcing the vaccine mandates the Defendant Government Officials have,
2 in part, acted under color of state, as well as federal law.

3 **EIGHTH CAUSE OF ACTION**

4 **Violation of the Federal Property and Administrative Services Act("FPASA")**

5 **(40 U.S.C. §§ 101 and 121)**

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

7 411. While the FPASA "vest[s] broad discretion in the President" it does not provide
8 the President with "a blank check to fill at his will." *Chamber of Commerce of the*
9 *United States v. Reich*, 74 F.3d 1322, 1330 (D.C. Cir. 1996) quoting *AFL-CIO v. Kahn*,
10 618 F.2d 784, 793 (D.C. Cir. 1979) (en banc). "The procurement power must be
11 exercised consistently with the structure and purposes of the statute that delegates that
12 power." *Id.* at 1330-31.

13 412. Several United States District Courts have held that Executive Order 14042
14 violate the FPASA. See *Georgia, et al., v. Joseph R. Biden, et al.*, 1:21-cv-163, ECF 94
15 (S.D. Ga. Nov. 30, 2021) (Baker, J.); *Kentucky, et al., v. Joseph R. Biden, et al.*, 3:21-
16 cv-55, ECF 50 (E.D. Ky. Nov. 11, 2021) (Van Tatenhove, J.); *Missouri, et al. v. Joseph*
17 *R. Biden, et al.*, 4:21-cv-1300, ECF 36 (E.D. Mo. Dec, 20, 2021) (Noce, M.J.); and
18 *Florida v. Nelson, et al.*, 8:21-cv-2524 (December 22, 2021) (Merryday, J.).
19 Importantly, in *Georgia v. Joseph R. Biden*, Judge Bake issued a nationwide injunction
20 hold that Executive Order 14042 exceeds FPASA's authorization.
21
22
23
24
25

1 413. The purpose of the FPASAFPASA is to provide the Federal Government
2 with an “economical and efficient system” for, among other things, procuring and
3 supplying property and nonpersonal services. 40 U.S.C. § 101. The Executive Orders,
4 however, will actually and materially undermine the efficient and economical delivery
5 of property and services by disrupting the continuity of the contractor workforce, and
6 rendering federally operated nuclear facilities unsafe.
7

8 414. The purpose of the FPASA is *not* to impose a sweeping vaccination mandate
9 on broad swaths of the American people or to use the federal procurement system as a
10 proxy for implementing a nationwide public health mandate, nor was the FPASA
11 designed as a public health statute.
12

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

19 416. The President has failed to demonstrate a “nexus” between the Executive
20 Orders and the FPASA’s purpose of promoting an “economical and efficient system”
21 for federal contracting. 40 U.S.C. § 101; *see Am. Fed’n of Lab. & Cong. of Indus.*
22 *Organizations v. Kahn*, 618 F.2d 784, 793 (D.C. Cir. 1979) (explaining that the FPASA
23 is violated when the President does not demonstrate a “nexus” between executive action
24
25

1 and the FPASA’s policy). The FPASA’s text obligates the President to exercise his
2 statutory authority “consistently with [the Act’s] structure and purposes.” *Id.*

3 417. Instead, the Executive Orders exceed the President’s FPASA authority by
4 directing the Task Force, without a demonstrable nexus to the FPASA’s purpose, to
5 prescribe a sweeping public health scheme.
6

7 418. Here, the text of the FPASA clearly demonstrates that Congress has not
8 authorized the Executive Orders, and thus, the Executive Orders violate the FPASA.
9

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

17 420. When the federal government intrudes on a traditional state function, it must
18 clearly articulate the scope of the intrusion and the rationale behind its unprecedented
19 action, which it has not done here. *Gregory v. Ashcroft*, 501 U.S. 452, 463–64(1991).
20

21 421. The Executive Orders implicate critical issues of federalism as public health
22 and the regulation of inoculation regimes are traditional state functions.
23

24 422. Because the statutory language that the President relies on to issue The
25

1 Executive Orders do not contain a clear statement affirmatively sanctioning the broad
2 scope of the Executive Orders, they violate the FPASA.

3 423. Therefore, under both the plain text of the FPASA and the clear statement
4 principle, it is unlawful, and thus the Executive Orders are unenforceable.
5

6 424. The first COVID-19 case in United States occurred in Everett, WA, January
7 20, 2020; President Biden issued the Executive Orders on September 8, 2021, a delay
8 of twenty-one months.
9

10 **NINTH CAUSE OF ACTION**

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

12 425. Plaintiffs incorporate each of the Complaint allegations stated above herein.
13

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

20 427. The Executive Orders will require contractors to develop, implement, and
21 monitor a host of new policies and procedures impacting, for some contractors, their
22 entire workforce. In order to fully comply with the Executive Orders, contractors will
23 have to fire any covered employee who refuses to be vaccinated and has not asserted an
24
25

1 exemption.

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

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

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

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

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

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

23 434. Accordingly, President Biden failed to comply with 41 U.S.C. § 1707(a) when
24 issuing the OMB Determination and the Task Force Guidance, making the Executive
25

1 Orders invalid as a matter of law.

2 **TENTH CAUSE OF ACTION**

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

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

5 436. Pursuant to Article I, Section 1 of the United States Constitution, Congress
6 is vested with all legislative powers.

7
8 437. “Congress is not permitted to abdicate or to transfer to others the essential
9 legislative functions with which it is thus vested.” *A.L.A. Schechter Poultry Corp. v.*
10 *United States*, 295 U.S. 495, 529–30 (1935).

11
12 438. The executive branch can only exercise its own discrete powers reserved by
13 Article II of the United States Constitution and such power that Congress clearly
14 authorizes through statutory command.

15
16 439. Congress gives such authorization when it articulates an intelligible principle
17 to guide the Executive that not only sanctions but also defines and cabins the delegated
18 legislative power.

19
20 440. Under the nondelegation doctrine, Congress cannot simply offer a general
21 policy that is untethered to a delegation of legislative power. For a delegation to be
22 proper, Congress must articulate a clear principle or directive of its congressional will
23 within the legislative act. That is, Congress must “lay down by legislative act an
24
25

1 intelligible principle to which the person or body authorized to exercise the delegated
2 authority is directed to conform.” See *J.W. Hampton, Jr., & Co. v. United States*, 276
3 U.S. 394, 409 (1928). The principle must be binding, and the delegate must be “directed
4 to conform” to it. *Id.*

6 441. The nondelegation doctrine preserves and protects important tenets of our
7 democracy, including individual liberties and states’ rights.

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

12 443. The President’s indirect delegation to the federal agencies of broad authority
13 and discretion to enforce the already unconstitutional Contractor Mandate is
14 unsupported by an explicit statutory directive within the FPASA or any other federal
15 law.

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

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

24 b. Second, even if Congress did clearly authorize a national vaccination schedule
25

1 for federal contractors, it did not give sufficiently clear instructions to permit the
2 President to delegate legislative judgment to the Task Force or the OMB Director.

3 445. The Executive Order's reliance on the precatory statement of purpose in the
4 FPASA is not a clear directive, and neither the President nor the federal agencies can
5 rely on it to impose an intrusive and sweeping vaccine mandate.
6

7 446. Further, any delegation sanctioning broad and intrusive executive action cannot
8 be sustained without clear and meaningful legislative guidance, especially given the
9 important separation of powers and federalism concerns implicated. Under the
10 nondelegation doctrine, the Executive Orders are unconstitutional because Congress
11 did not articulate a clear principle by a legislative act that directs the Executive to take
12 sweeping action that infringes on state and individual rights.
13
14

15 447. Here, the Executive Orders cut deeply into the state's sphere of power without
16 articulating the underlying reasons or providing a justification beyond a superficial,
17 unsupported, and pretextual reference to efficiency and economy in federal contracts.
18

19 448. Without *explicit* congressional authorization, the President's delegation of
20 power in the Executive Orders through the various executive agencies and private actors
21 implementing the Executive Orders cannot survive constitutional scrutiny.
22

23 **ELEVENTH CAUSE OF ACTION**

24 **Violation of Separation of Powers and Federalism (Article I, Section 8 and** 25 **Amendment X to the United States Constitution)**

1 449. Plaintiffs incorporate each of the Complaint allegations stated above herein.

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

4 451. The Executive Orders exceed congressional authority.

5
6 452. Pursuant to Article I, Section 8 of the United States Constitution, Congress has
7 authority “to make all Laws which shall be necessary and proper for carrying into
8 Execution” its general powers (“the Necessary and Proper Clause”). The Necessary and
9 Proper Clause does not “license the exercise of any ‘great substantive and independent
10 power[s]’ beyond those specifically enumerated.” *Nat’l Fed’n of Indep. Bus. v.*
11 *Sebelius*, 567 U.S. 519, 559 (2012) (citation omitted).

12
13 453. Pursuant to the Tenth Amendment of the United States Constitution, “the
14 powers not delegated by the Constitution to the United States, nor prohibited by it to
15 the States, are reserved to the States respectively, or to the people.” U.S. Const. amend.

16
17 X.

18
19 454. Nothing in the Constitution authorizes the federal agencies of the executive
20 branch to impose the Executive Orders on states because requiring vaccinations for state
21 employees is an exercise of the police power left to the states under the Tenth
22 Amendment.

23
24 455. The Constitution does not empower Congress to require anyone who transacts
25 business with the federal government to get vaccinated. It is not a “proper” exercise of

1 Congress's authority to mandate that every employee who touches a federal contract or
2 comes in contact with another employee who touches such a contract, has to be
3 vaccinated because the action here falls outside the scope of an Article I enumerated
4 power.

5
6 456. President Biden, through the Executive Order, has exercised power that
7 Congress does not possess under the Constitution and, therefore, cannot delegate to
8 other branches of the federal government.

9
10 457. If Congress intended the FPASA to authorize what the President claims, the
11 Act exceeds Congress's authority, and thus President Biden must be enjoined from
12 taking any action under the Act.

13 **TWELFTH CAUSE OF ACTION**

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

15
16 458. Plaintiffs incorporate each of the Complaint allegations stated above herein.

17
18 459. Pursuant to the Tenth Amendment of the United States Constitution, "the
19 powers not delegated by the Constitution to the United States, nor prohibited by it to
20 the States, are reserved to the States respectively, or to the people." U.S. Const. amend.

21 X. President Biden, through the Executive Order, has exercised power far beyond
22 authority delegated to the federal government by Constitutional mandate or
23 congressional action.
24
25

1 460. Neither Article II of the U.S. Constitution nor any act of Congress authorizes
2 the federal agencies of the executive branch to implement the Executive Order, which
3 traditionally falls under the police power left to the states under the Tenth
4 Amendment.

5
6 461. The Tenth Amendment explicitly preserves the “residuary and inviolable
7 sovereignty,” of the states. *Printz v. United States*, 521 U.S. 898, 918–19 (1997)
8 (quoting *The Federalist* No. 39, at 245 (J. Madison)).
9

10 462. By interfering with the traditional balance of power between the states and the
11 federal government and by acting pursuant to ultra vires federal action, President Biden
12 violated this “inviolable sovereignty,” and thus, the Tenth Amendment.

13 463. Therefore, the Executive Orders were adopted pursuant to an unconstitutional
14 exercise of authority by President Biden and must be invalidated.
15

16 **THIRTEENTH CAUSE OF ACTION**

17 **Unconstitutional Exercise of the Spending Clause (Under Article I, Section 8,**

18 **Clause 1 of the United States Constitution)**
19

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

21 465. The challenged actions are unconstitutional conditions on the states’ receipt
22 of federal funds. Article I, Section 8, Clause 1 of the United States Constitution gives
23 Congress the power to “lay and collect Taxes, Duties, Imposts, and Excises, to pay the
24
25

1 Debts and provide for the common Defense and the general Welfare of the United
2 States.” While “Congress may attach appropriate conditions to . . . spending
3 programs to preserve its control over the use of federal funds,” it cannot wield
4 federal funding to unreasonably constrain state autonomy. *Nat’l Fed’n of Indep.*
5 *Bus. v. Sebelius*, 567 U.S. 519, 579 (2012). “[I]n some circumstances the financial
6 inducement offered by Congress might be so coercive as to pass the point at which
7 ‘pressure turns into compulsion.’” *South Dakota v. Dole*, 483 U.S. 203, 211 (1987).
8

9
10 466. Federal contracts are an exercise of the Spending Clause, yet the challenged
11 actions ask The Employees to agree to a coercive contract term.

12 467. The federal contracts at issue here account for considerable portions of The
13 Employees’ budgets for essential research, education, and other necessary programs.
14 The pressure on The Employees to comply with the Executive Orders rise to the level
15 of coercion. The challenged actions are invalid for that reason alone.
16

17 **FOURTEENTH CAUSE OF ACTION**

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

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

21 469. Pursuant to 5 U.S.C. § 553, agencies must publish “a notice of proposed
22 rulemaking in the Federal Register before promulgating a rule that has legal force.”
23 *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S.Ct. 2367,
24

1 2384 (2020); 5 U.S.C. § 553(b).

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

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

9
10 472. Proper “class deviations” must fit within one of the discrete definitions set forth
11 in 48 C.F.R. 1.401.

12 473. Here, however, the FAR Deviation Clause fits none of the definitions.

13
14 474. Instead, the FAR Deviation Clause is in the nature of a rule within the meaning
15 of the APA because it is “an agency statement of general or particular applicability and
16 future effect designed to implement, interpret, or prescribe law or policy.” 5 U.S.C. §
17 551(4).

18
19 475. The FAR Council violated the APA by failing to comply with the notice-and-
20 comment requirements for rulemaking.

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

FIFTEENTH CAUSE OF ACTION

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

1
2
3 477. Plaintiffs incorporate each of the Complaint allegations stated above herein.

4
5 478. Under the APA, a court must “hold unlawful and set aside agency action” that
6 is “not in accordance with law” or “in excess of statutory . . . authority, or limitations,
7 or short of statutory right.” *See* 5 U.S.C. § 706(2)(A), (C).

8
9 479. The OMB Determination adopting the Task Force guidance is contrary to law
10 for at least four reasons.

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

13
14 481. Executive Order 14042 apparently seeks to circumvent § 1303 by delegating
15 the President’s FPASA power to the OMB Director.

16 482. That attempt is unlawful because the President has no authority to issue
17 regulations under § 1303—only the FAR Council may issue government-wide
18 procurement regulations. *See* Centralizing Border Control Policy Under the Supervision
19 of the Attorney General, 26 Op. OLC 22, 23 (2002) (“Congress may prescribe that a
20 particular executive function may be performed only by a designated official within the
21 Executive Branch, and not by the President.”).

22
23
24 483. Second, and relatedly, the OMB rule is contrary to law because the FPASA
25

1 does not grant the President the power to issue orders with the force or effect of law.
2 Congress authorized the President to “prescribe policies and directives that the
3 President considers necessary to carry out.” 40 U.S.C. § 121(a).

4
5 484. “[P]olicies and directives” describe the President’s power to direct the
6 exercise of procurement authority throughout the government. It does not authorize the
7 President to issue regulations himself.

8
9 485. Congress knows how to confer that power, as it authorized the GSA
10 Administrator, in the same section of the statute, to “prescribe regulations.” *Id.*
11 §121(c); *see also Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) (“[W]hen
12 the legislature uses certain language in one part of the statute and different language in
13 another, the court assumes different meanings were intended.”).

14
15 486. Congress has given the President the power to “prescribe regulations” in other
16 contexts, typically in the realm of foreign affairs and national defense. *See, e.g.,* 18
17 U.S.C. § 3496 (“The President is authorized to prescribe regulations governing the
18 manner of executing and returning commissions by consular officers.”); 32 U.S.C. §
19 110 (“The President shall prescribe regulations, and issue orders, necessary to organize,
20 discipline, and govern the National Guard.”).

21
22
23 487. Third, even if the FPASA authorized the President to issue orders with the force
24 or effect of law, it would not authorize approval of the Task Force guidance. The
25

1 President appears to assume that the FPASA’s prefatory statement of purpose
2 authorizes him to issue any order that he believes promotes “an economical and
3 efficient” procurement system. 40 U.S.C. § 101. In doing so, the President mistakenly
4 construes the prefatory purpose statement for a grant of authority. D.C. v. Heller, 554
5 U.S. 570, 578 (2008) (“[A]part from [a] clarifying function, a prefatory clause does not
6 limit or expand the scope of the operative clause.”).

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

14 489. Further, the Executive Orders are divorced from the practical needs of
15 procurement. In order to maintain a steady and predictable flow of goods and services—
16 and the advancement of science and technology through research and development—
17 the federal procurement system requires a stable and reliable workforce to timely
18 perform work required under tens of thousands of federal contracts and funding
19 agreements. The Executive Orders disrupt the stability and reliability of the contractor
20 workforce by forcing contractors to potentially fire unvaccinated and non-exempt
21 covered employees, many of whom are highly skilled and essential to the work.

22 490. Because the OMB Determination violates § 1303(a), seeks to exercise a

1 delegated power the President does not possess, and relies on a misreading of the
2 FPASA, it is contrary to law.

3 **SIXTEENTH CAUSE OF ACTION**

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

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

6 492. Pursuant to the Administrative Procedure Act, agency action that is “arbitrary
7 [or] capricious” is unlawful and must be set as aside by a court of competent
8 jurisdiction. 5 U.S.C. § 706(2)(A).
9

10 493. Pursuant to 48 C.F.R. 1.402 “[u]nless precluded by law, executive order, or
11 regulation, deviations from the FAR may be granted [] when necessary to meet the
12 specific needs and requirements of each agency.”
13

14 494. The Executive Orders are being implemented with no express findings, no
15 explanation, and no consideration of the distinct and diverse universe of federal
16 agencies.
17

18 495. The Executive Orders impose universal and uniform requirements without
19 regard to the particularized needs and circumstances of each federal agency and are
20 therefore arbitrary and capricious in violation of the APA.
21

22 **SEVENTEENTH CAUSE OF ACTION**

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

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

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

12 498. The Executive Orders, commandeer U.S. employers to compel millions of
13 employees to receive a COVID-19 vaccine or face termination. While the Commerce
14 Clause power is expansive, it does not grant Congress the power to regulate noneconomic
15 inactivity traditionally within the States’ police power. *See Sebelius*, 567 U.S. at 554
16 (Roberts, C.J., concurring) (“People, for reasons of their own, often fail to do things
17 that would be good for them or good for society. Those failures—joined with the
18 similar failures of others—can readily have a substantial effect on interstate
19 commerce. Under the Government’s logic, that authorizes Congress to use its
20 commerce power to compel citizens to act as the Government would have them act.
21 That is not the country the Framers of our Constitution envisioned.”); *see also Bond v.*
22 *United States*, 572 U.S. 844, 854 (2014) (“The States have broad authority to enact

1 legislation for the public good—what we have often called a ‘police power.’ . . . The
 2 Federal Government, by contrast, has no such authority. . .” (Citations omitted)).
 3 Indeed, the courts “*always* have rejected readings of the Commerce Clause . . . that
 4 would permit Congress to exercise a police power.” *United States v. Lopez*, 514 U.S.
 5 549, 584 (1995) (Thomas, J., concurring). In sum, the Executive Orders far exceed
 6 current constitutional authority.
 7

8 EIGHTEENTH CAUSE OF ACTION

9 42 USC § 1983

10
 11 499. Private parties may be deemed a state actor for the purposes of an action under
 12 42 USC § 1983 if: (1) the state compelled the private party’s conduct, (2) the private
 13 party acted jointly with a state, or (3) the private party fulfilled a role that is traditionally
 14 a public function performed by a state. *Baez v. JetBlue Airways*, 745 F. Supp. 2d 214,
 15 221 (E.D.N.Y. 2010) (citing *Sybalski v. Indep. Grp. Home Living Program, Inc.*, 546
 16 F.3d 255, 257(2d Cir. 2008)).
 17

18
 19 500. To assert that a private Defendant is acting as a state actor, “the central inquiry
 20 is whether there was ‘such a close nexus between the State and the challenged [private]
 21 action that the seemingly private behavior may be fairly treated as that of the State
 22 itself.’” *Baez v. Jet Blue Airways*, 745 F. Supp. 2d 214, 221 (E.D.N.Y.
 23 2010) (quoting *Tancredi v. Metro. Life Ins. Co.*, 316 F.3d 308, 312 (2d Cir. 2003)). In
 24 other words, “Conduct that is formally “private” may become so entwined with
 25

1 governmental policies or so impregnated with a governmental character as to become
2 subject to the constitutional limitations placed upon state action.” *Evans v. Newton*, 382
3 U.S. 296, 299 (1966); see also: *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass’n*,
4 531 U.S. ,288, 296 (2001).

5
6 501. The Supreme Court articulated four factors to determine whether an entity is
7 engaging in government action: 1) the degree of funding by the government; 2) the
8 extent to which regulations influence the entity’s conduct; 3) whether the entity was
9 engaging in a public function; and 4) whether there was a symbiotic relationship
10 between the government and the entity. *Rendell-Baker v. Kohn*, 457 U.S. 830, 840–43,
11 102 S. Ct. 2764, 73 L.Ed.2d 418 (1982) See also *Morse v. N. Coast Opportunities*, 118
12 F.3d 1338, 1342–43 (9th Cir. 1997) (utilizing the *Rendell-Baker* factors to determine
13 whether a non-profit community action agency acted under the color of state law in its
14 hiring and firing decisions).

15
16
17 502. Pursuant to the authority set forth by the United States Supreme Court in *Bivens*
18 *v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 396
19 (1971), Defendants’ conduct in violation of Plaintiffs’ constitutional rights may give
20 rise to an action for monetary damages in this Court pursuant to 28 U.S.C. § 1331. The
21 9th Circuit, in *Boule v. Egbert*, 998 F.3d 370 (9th Cir. 2021), has confirmed that the rule
22 of *Bivens* extends to damages resulting from a federal agent’s violation of First
23 Amendment rights.
24
25

1 503. Additionally, the 9th Circuit has recently allowed individuals to sue the private-
2 actor warden of the *privately owned* Immigration Customs Enforcement (“ICE”)
3 Processing Center for a violation of constitutional rights as a “government” defendant.
4
5 *Roman v. Wolf*, 3d 935 (9th Cir. 2020).

6 504. There is a close nexus between President Biden’s Executive Orders and
7 Contractor-Defendants’ requirement to become fully vaccinated against COVID-19 as
8 these contractors exist exclusively to serve the United States government (with limited
9 exceptions), and the contractors’ COVID-19 vaccine mandates were brought in
10 furtherance of Executive Order 14042 and DOE directives.

11
12 **RELIEF REQUESTED**

13
14 A. A Declaration that Executive Order 14042 and Executive Order 14043 are
15 unconstitutional for each Order’s infringement upon the Free Exercise of Religion, the
16 Religious Freedom and Restoration Act of 1993 and as each Order exceeds the FPASA.

17
18 B. A Temporary Restraining Order and Preliminary Injunction enjoining
19 Defendants Vance, McCain, Sax, Wilkinson, Hardy, Whitmer, Ashby, and Eschenberg
20 from taking adverse employment action against the Employees through any
21 implementation of workplace policies mandating COVID-19 vaccination pursuant to
22 Executive Order 14042 or Executive Order 14043.

23
24 C. Attorney fees as authorized by statute.

25 D. Absent declaratory or injunctive relief, judgment in favor of each Plaintiff

1 against his or her specific employer for wrongful termination and breach of contract,
2 liability and damages to be determined by a jury of twelve.

3 E. Any other remedy deemed reasonable by this Court.
4

5 **DATED** this 18th day of January 2022.

6 **ARNOLD & JACOBOWITZ PLLC**

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21 *Counsel for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States District Court District of Washington by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have I served a copy of the foregoing upon all Defendants via legal messenger.

DATED this 18th day of January 2021.

/s/ Nathan J. Arnold
Nathan J. Arnold, WSBA No. 45356