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ROLL CALL 4 FREEDOM, LLC

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 ROLL CALL 4 FREEDOM, LLC, a
California LLC

10 Plaintiff,

11 v.

12
13 CITY OF LOS ANGELES, a
municipal entity of the State of
14 California, and DOES, 1 through 50,
inclusive,

15 Defendants.
16

CASE NO. _

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF,
DAMAGES AND ATTORNEY’S FEES**

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1 COMES NOW, ROLL CALL 4 FREEDOM, LLC (“Plaintiff” or “RC4F”)
2 which asserts the following claims of relief against Defendants CITY OF LOS
3 ANGELES, (“City” or “Defendant City”) and Does 1 through 50, inclusive, and
4 hereby alleges as follows:

5 “Even during a pandemic the Constitution cannot be put away and forgotten.”

6 *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S.Ct. 63 (2020).

7 **INTRODUCTION**

8 1. By this action, Plaintiff seeks to protect the free exercise of religion
9 under the First Amendment of the United States and California Constitutions
10 possessed generally by workers of the Defendant City but in particular, by the
11 members of Plaintiff who are all qualified/eligible employees of the City. The
12 religious exemption and testing provisions of the COVID-19 vaccine mandate
13 enacted by The City Ordinance #187134 (“the Ordinance”), requiring vaccination
14 of City workers against COVID-19, as enacted and implemented, violate freedom
15 of religion, free exercise thereof, and create an excessive entanglement between
16 City government and religion, all as more specifically alleged below. **This action**
17 **contests only the testing and exemption portions of the Ordinance, and not the**
18 **entire vaccine mandate.** The purpose of the religious exemption and testing
19 scheme is not to provide for exemptions for sincerely held religious beliefs but to
20 force employees holding such beliefs to abandon them or to forfeit employment
21 with the City in an effort to move toward a fully vaccinated workforce. As the

1 City's mayor, Mr. Eric Garcetti "(Mayor Garcetti)" has stated: "Let me be clear:
2 Any employee who refuses to get vaccinated by this date should be prepared to
3 lose their job."¹

4 2. The Ordinance grants excessive discretion to different employers
5 within the 40 departments of the City and to low-level bureaucrats in deciding
6 religious exemptions such that there is excessive entanglement with religion and
7 possibly the establishment of religion. There is no stare decisis supporting
8 decisions based upon religion. According to prevailing U.S. Supreme court
9 precedent, such a scheme is neither neutral toward all religions nor generally
10 applicable. The regimen must be narrowly tailored to serve a compelling state
11 interest. The testing and religious exemption provisions are not narrowly tailored
12 to serve a compelling state interest. Rather, they impose undue hardship and
13 unnecessary burdens on the free exercise of religion. Low-level bureaucrats are
14 evaluating whether beliefs are sincerely held and whether they are central to
15 accepted organized religion. These bureaucrats are also evaluating scholarly
16 submissions by religious leaders in support of religious exemption applications as
17 well as the credibility of affidavits made on personal knowledge. There is no
18 uniformity in the process and no application of stare decisis. The way is open to
19 having low-level bureaucrats deny exemptions by religions they despise, to force
20 the abandonment of their observance, and to establish and foster the practice of

21 ¹ Mayor Garcetti says LA employees who aren't vaccinated by Dec. 18 'should be prepared' to lose jobs - abc7

1 religions they prefer. According to U.S. Supreme Court precedent, no system of
2 review can save this regimen and resurrect it to pass First Amendment muster.

3 3. Moreover, the Ordinance is not being followed in a uniform fashion
4 by employers throughout the City, or in a manner that comports with the language
5 and intent of the Ordinance. The testing provision of the Ordinance, as
6 implemented, exceeds the authority granted by the Ordinance and excessively and
7 improperly burdens the exercise of religion. The Ordinance prescribes weekly
8 testing for unvaccinated employees, yet employees are being tested twice weekly
9 by virtually all City departments. At this time, when the Omicron variant exceeds
10 80% (and rising) of all California COVID cases, and when the rolling average of
11 positive tests is 20.6%, there is no basis for not testing vaccinated employees, so
12 those with religious exemptions are being discriminated against on the basis of
13 religion. The Ordinance states that testing shall be free to the employees, yet
14 unvaccinated employees are seeking religious exemption are being forced to
15 undergo mandatory testing; an excessive burden upon religion. Currently, testing
16 is time-consuming. Work is being missed and it is unknown at this time whether,
17 or how much paid time will be allowed for seeking testing. Many members of
18 Plaintiff have not been compensated for time spent trying to arrange for and take a
19 COVID test in violation of the Federal Fair Labor Standards Act (“FLSA”). The
20 protocols for handling positive tests and returning to work are not uniform. But
21 employees are penalized in their sick days, while vaccinated employees may have

1 Omicron, are not tested, and are not penalized. Employees who test positive and
2 who work in an area where other employees have tested positive are forced to be
3 off work with time paid by “workers comp.” The City has created a payroll code
4 for this specific type of absence from the office and it is being paid for by the City.
5 However, if the person works in an area where no one else is out sick besides them,
6 then the City assumes they were exposed outside of work and they have to use
7 personal sick time. In the alternative, if an employee does not show symptoms of
8 COVID-19, then the employee is forced to return to work, with no additional
9 testing.

10 4. By this action, Plaintiff also seeks to protect the fundamental rights of
11 bodily integrity, autonomy, and medical choice, under the Fourteenth Amendment
12 of the United States Constitution, possessed generally by workers of the Defendant
13 City but in particular, by the members of Plaintiff who are all qualified/eligible
14 employees of the City. Operation Warp Speed caused the currently available
15 COVID-19 vaccines to be developed at an expedited rate, the likes of which we
16 have never seen before. Development of the COVID-19 vaccines telescoped what
17 would normally take years of research into a matter of months. Accordingly, the
18 members of RC4F contend that they are entitled to seek an exemption to the
19 mandate on the grounds that they do not give their informed consent to participate
20 in these experimental trials. Requiring them to do so violates their rights to bodily
21 integrity, autonomy, and medical choice, which are protected by the Fourteenth

1 Amendment. Plaintiff contends that those employees who do not give their
2 informed consent to participate in these experimental trials by receiving the
3 vaccine should be permitted to be tested in the same manner as those employees
4 seeking religious and/or medical exemptions.

5 **JURISDICTION AND VENUE**

6 5. This Court has jurisdiction and venue over this action pursuant to 28
7 U.S.C. §§ 1331, 1343, and 42 U.S.C. §§ 1983 and 1988 because the Defendants
8 are violating Plaintiffs' civil rights; and 42 U.S.C. §2000e-5(f)(3), which confers
9 original jurisdiction on federal district courts to address the deprivation of rights,
10 privileges, and immunities secured by the United States Constitution and federal
11 law, and the general legal and equitable powers of this Court, which empower this
12 Court to grant the requested relief. Plaintiffs' claims for declaratory and injunctive
13 relief are authorized by 28 U.S.C. §§ 2201-2202, and Federal Rules of Civil
14 Procedure, Rule 57 and 65. Supplemental Jurisdiction of this Court is invoked
15 pursuant to 28 U.S.C. § 1367 over the state law claims which are so related to the
16 federal claims in this action that they form part of the same case or controversy
17 under Article III of the United States Constitution.

18 6. This Court has the authority to award Plaintiffs' attorneys' fees and
19 costs associated with this action pursuant to 42 U.S.C. § 1988 and other applicable
20 laws.

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1 vaccines alter human DNA², which invades the sole power of the Creator. Further,
2 a subset of members contends that they do not give their informed consent to
3 participate in experimental trials by receiving the vaccine and should be permitted
4 to seek an exemption on that basis, in the same manner, that they are seeking a
5 religious exemption.

6 9. At all relevant times, Defendant City was, and now is, a municipal
7 corporation and political subdivision of the State of California, operating pursuant
8 to a city charter, under the law of the State of California. The City is a
9 qualified/eligible “employer” within the meaning of the California Fair
10 Employment and Housing Act and Title VII of the Civil Rights Act. It employs
11 each member of Plaintiff.

12 10. At all relevant times, Defendant City possessed the power and
13 authority to adopt policies and prescribe rules, regulations, and practices affecting
14 the operation of the City and its employees.

15 11. The true names and capacities, whether individual, corporate,
16 association or otherwise of Defendants DOES 1 through 50, inclusive, are
17 unknown to Plaintiff who otherwise sues these Defendants by such fictitious
18 names.

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21 ² A study was recently released confirming the fact that mRNA vaccines do, in fact, alter DNA. Study: Pfizer COVID shot converts into DNA in human cells – Clark County Today

1 12. Plaintiff will seek to leave to amend this Complaint to show the true
2 names and capacities of these Doe Defendants when they have been ascertained.
3 Each of the fictitiously named Defendants is responsible in some manner for the
4 conduct or liabilities alleged herein.

5 13. The claims that RC4F will allege against any subsequently named
6 Doe Defendant will arise out of the same allegations and claims as those set forth
7 herein. Any subsequently named Doe Defendants will have such notice of this
8 action and/or the claims of Plaintiff that they will not be prejudiced in making their
9 defense. Any subsequently named Doe Defendants will know or should have
10 known that but for a mistake of identity, they would have been named in this
11 Complaint.

12 14. The Defendants, and each of them, were the agents, employees, joint
13 venturers, and co-conspirators of each of the remaining Defendants. Each of the
14 Defendants was acting within the course and scope of said agency, employment,
15 joint venture, or conspiracy at all relevant times. Each Defendant agreed in
16 advance to the tortious objective of the conspiracy and committed affirmative acts
17 in furtherance of the conspiracy. To the extent any act of any Defendants was not
18 initially authorized, the same was subsequently ratified by the remaining
19 Defendants.

20 **GENERAL ALLEGATIONS AS TO ALL CLAIMS FOR RELIEF**

21 15. All operative facts are pleaded upon information and belief.

1 *The Pandemic and The Vaccines*

2 16. COVID-19 was first identified by the World Health Organization
3 (“WHO”) on January 7, 2020. On March 1, 2020, the United Nations released \$15
4 million in funds to support the global COVID-19 response. On March 7, 2020,
5 cases of COVID-19 reached 100,000. COVID-19 was declared a pandemic by the
6 WHO on March 11, 2020. COVID-19 rapidly transformed from a problem
7 confined to China to a global health emergency almost overnight.

8 17. In Europe, cases rose rapidly daily. Italy recorded 250 deaths between
9 March 12, 2020 and March 13, 2020. On March 13, 2020, the WHO declared
10 Europe to be the epicenter of the pandemic. On the same day, the U.S. declared a
11 state of emergency

12 18. Social distancing and travel restrictions began to come into force in
13 March 2020 along with advice on proper handwashing techniques. However, these
14 measures were predicted only to slow the spread of the virus. Scientists understood
15 that to overcome the pandemic, a vaccine was needed. On the 17th of March 2020,
16 the first COVID-19 human vaccine trials began with the Moderna mRNA vaccine.
17 Quickly, restrictions in most regions became harsher, with the UK enforcing a stay-
18 at-home rule on the 26th of March 2020. Many European countries implemented
19 their own national lockdown around this time. By the 2nd of April, total global
20 COVID-19 cases passed 1 million.

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1 19. In April 2020, the national administration announced Operation Warp
2 Speed (“OWS”) a public/private partnership to develop and distribute a vaccine
3 for COVID-19 by the end of 2020 or early 2021. The process for developing a
4 vaccine normally takes place in several phases, over a period of years.

5 20. The general stages of the development cycle for a vaccine are:

- 6 a. Exploratory stage;
- 7 b. Pre-clinical stage (animal testing);
- 8 c. Clinical development (human trials - see below);
- 9 d. Regulatory review and approval;
- 10 e. Manufacturing; and
- 11 f. Quality control.³

12 21. The third stage, clinical development, is itself a three-phase process:

13 a. During Phase I, small groups of people receive the trial
14 vaccine.

15 b. In Phase II, the clinical study is expanded, and the vaccine is
16 given to people who have characteristics (such as age and physical health similar
17 to those for whom the new vaccine is intended.

18 c. In Phase III, the vaccine is given to thousands of people and
19 tested for efficacy and safety.

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³ <https://www.cdc.gov/vaccines/basics/test-approve.html>.

1 22. Phase III itself normally occurs over a course of years because it can
2 take years for the side effects of a new vaccine to manifest themselves. Phase III
3 must be followed by a period of regulatory review and approval. During this stage,
4 data and outcomes are reviewed by peers and by the FDA. Finally, the
5 manufacturer must demonstrate that the vaccine can be manufactured under
6 conditions that assure adequate quality control.

7 23. The timeline set by OWS telescoped what would normally take years
8 of research into a matter of months. Commercial vaccine manufacturers and other
9 entities proceeded with the development of COVID-19 vaccine candidates using
10 different technologies including RNA, DNA, protein, and viral vector vaccines.

11 24. In August of 2020, the Lambda variant was first discovered in Peru.
12 In September 2020, the Alpha variant was first identified in the United Kingdom.
13 The discovery of these variants showed that the virus was evolving, and disease
14 outcomes were changing. With the emergence of these new variants, cases of
15 COVID-19 began to rise again in many countries and by the 29th of September
16 2020, there had been 1 million COVID-19 deaths.

17 25. Experimental vaccines were developed in record time. Two potential
18 vaccines emerged early on as likely candidates: one developed by Moderna
19 (“Moderna Vaccine”) and the other by Pfizer (“Pfizer Vaccine”) with both
20 announcing Phase III trial results in November 2020.

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1 26. On the 9th of November 2020, trials demonstrated the Pfizer and
2 BioNTech vaccines to be effective in experimental trials, and the Moderna vaccine
3 was proved to also be effective a week later. On the 23rd of November, 2020, the
4 AstraZeneca COVID-19 was also shown to be effective in experimental trials.
5 Fetal cell lines were used to develop the Johnson & Johnson and AstraZeneca
6 vaccines. Some remnants of these cell lines remain in these vaccines. Fetal cell
7 lines were also used in research and development for the Moderna and Pfizer
8 vaccines.⁴ The HEK 293 cell lines were used for the AstraZeneca, Moderna, and
9 Pfizer vaccines while Johnson & Johnson used the PER.C6 cell line.

10 27. In December 2020, the Delta variant was first discovered in India.
11 Concerns over the potential increased transmissibility of the variants forced many
12 governments to reinforce lockdown measures once again to varying degrees

13 28. On December 31, 2020, the WHO issued its first emergency use
14 validation for a COVID-19 vaccine, making the Pfizer/BioNTech vaccine the first
15 to be available for use. Since then, the Moderna vaccine and the
16 Oxford/AstraZeneca vaccine have also been approved for emergency use and
17 national vaccine rollout initiatives have begun with full force. But the FDA had
18 not found any of them to be safe and effective.⁵

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21 ⁴ [Pfizer downplays COVID-19 vaccine's ties to fetal tissue from abortions: Project Veritas – The Washington Times](#)

⁵ <https://www.cdc.gov/museum/timeline/COVID19.html>

1 29. On or about November 22, 2021, the Omicron variant was first
2 detected in Botswana, South Africa. It is estimated to spread 70 times faster than
3 other variants. Over 95% of current COVID-19 infections in the United States are
4 estimated to be of the Omicron variant. Omicron infects those who have been
5 vaccinated as well as those who are unvaccinated. Although the result may not be
6 as severe for the vaccinated, they are nonetheless carriers and may be
7 asymptomatic carriers of this variant. In December 2021, the infection rate among
8 the vaccinated increased sevenfold, due almost entirely to Omicron. The vaccines
9 have shown no effectiveness against Omicron, even with boosters.⁶

10 30. The lack of uniform mandates across political units has led to
11 unintended consequences as shown by detailed data science undertaken by the
12 National Institute of Health.⁷ Additionally inconsistent guidance from the CDC and
13 other government agencies has led to a loss of credibility undermining efforts to
14 control the pandemic.⁸

15 31. In Los Angeles County, a new record was set on January 9, 2022,
16 with 45,484 new cases of the virus. The rolling seven-day average of positive test
17 results is 20.6%. 199,314 fully vaccinated residents of Los Angeles County have
18 tested positive. 973 healthcare workers tested positive this past week, an increase
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20 ⁶ <http://publichealth.lacounty.gov/media/coronavirus/data/>; CDC: Omicron Variant Responsible For 99% Of New
COVID Cases Last Week – CBS Miami

21 ⁷ [The unintended consequences of inconsistent pandemic control policies - NCBI](#)

⁸ [CDC's credibility is eroded by internal blunders and external attacks as coronavirus vaccine campaigns loom - Washington Post](#)

1 of 47%, despite their very high vaccination rate. Over 80% of the current positives
2 in Los Angeles County are of the Omicron variant.⁹

3 ***The City and Its Employees***

4 32. The City was incorporated on April 4, 1850. It is the second-largest
5 city in the United States and has the third-largest gross domestic product of any
6 city in the world. The City employs over 50,000 employees. Among the largest
7 departments are police, fire, City Attorney, harbor, library, public works,
8 recreation, transportation, and council but there are 40 departments as of 2015. City
9 employees are represented by different unions. Some employees are not members
10 of any unions. City employees are members of many different religions or ascribe
11 to many different belief systems, and some employees are agnostic or atheist. Both
12 the City and the State of California are known worldwide for their cultural and
13 religious diversity and tolerance.

14 ***The Ordinance***

15 33. On July 27, 2021, Mayor Eric Garcetti and City Council President
16 Nury Martinez announced, “That they would push for mandatory COVID-19
17 vaccines for City employees, beginning with a requirement that workers either
18 submit proof of *vaccination or a weekly negative test.*” (Emphasis added.) Mayor
19 Garcetti stated further in his July 27, 2021, announcement, “This urgent need
20 means that if you’re a city employee, we’re now going to require you to either
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⁹ [LA County again breaks single-day record for COVID cases with 45,584 - abc7](#)

1 show that you're vaccinated *or take a weekly test*, and we're committed to pursuing
2 a full vaccine mandate. (Emphasis added.) According to Mayor Garcetti, "The new
3 policy will require all department heads to verify and keep track of their
4 employees' vaccination status and submit reports to the Personnel Department
5 detailing that information. Each employee will be required to show proof of full
6 vaccination to their department's HR representative. *In the absence of that proof,*
7 *employees must produce proof of a negative COVID-19 test on a weekly basis.*
8 Discussions are ongoing with the City's labor partners about the specific testing
9 implementation plan."¹⁰

10 34. The Los Angeles Ordinance (187134) (true and correct copy of which
11 is attached as **Exhibit "A"**) compelling City workers to be vaccinated against the
12 COVID 19 virus absent a medical or religious objection ("The Ordinance") was
13 apparently considered three times by the City Council. It was considered and
14 passed on August 24, 2021 (signed by the Mayor the next day), but news articles
15 report that it was passed on August 18, 2021, absent consequences for non-
16 compliance being worked out. No record of that consideration appears in the record
17 of meetings of the City Council. The Ordinance was considered again in a closed
18 session on October 6, 2021. There is no record of any comments by any City
19 Official or any specific agenda in connection with the October 6, 2021 meeting.

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21 ¹⁰ A complete copy of the Mayor's statement dated July 27, 2021 is located at [Mayor Garcetti, Council President Martinez push toward mandatory vaccines for City employees | Office of Los Angeles Mayor Eric Garcetti \(lamayor.org\)](#)

1 Comments by Councilman Gil Cedillo were reported in the news. He stated: “You
2 have a choice to work for the city or not. If you do, you have to follow the rules of
3 the workplace. You can’t come to work drunk. You can’t smoke in your office.
4 You have a right to do those things, but you can’t do them at work.” He did not say
5 anything about religious exemptions.¹¹

6 35. Among other things, the Ordinance mandates at Sec. 4.701(b) that “as
7 of October 20, 2021, the COVID-19 vaccination and reporting requirements are
8 conditions of City employment and a minimum requirement for all employees,
9 unless approved for an exemption from the COVID-19 vaccination requirement as
10 a reasonable accommodation for a medical condition or restriction or sincerely held
11 religious beliefs. Any employee that has been approved for an exemption must still
12 report their vaccination status.” The Ordinance further mandates at Sec. 4.701(c)
13 that “Requests for exemption from the COVID-19 vaccination must be submitted
14 no later than September 7, 2021.”

15 36. Sec. 4702. allows “Qualified Exemptions” from the mandatory
16 vaccination policy for “Employees with medical conditions/restrictions or
17 sincerely held religious beliefs, practices, or observances that prevent them from
18 receiving a COVID-19 vaccine.” Sec. 4702(a). Employees who qualify for
19 “medical or religious exemptions and who are required to regularly report to a
20 City worksite shall be subject to **weekly** COVID-19 tests.” Sec. 4701(b).

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¹¹ L.A. City Council votes to require COVID-19 vaccine for city employees - LA Times

1 (Emphasis added.) Sec. 4702 of the Ordinance goes on to state that “**The City’s**
2 **goal is to have a vaccinated workforce.** As such, employees will not have the
3 option to ‘opt out’ of getting vaccinated and become subject to a weekly testing
4 period; only those within the medical or religious exemption and who are required
5 to regularly report to a work location are eligible for the **weekly** testing period.”

6 (Emphasis added)

7 37. Implementation of The Ordinance was delayed to set up a testing
8 program and to bargain with unions over consequences. Mayor Garcetti stated in
9 an article appearing on November 16, 2021, that the delay was about giving more
10 time to set up the testing program. A new deadline of December 18, 2021, was set
11 and Garcetti’s spokesperson stated that anyone refusing to comply should be ready
12 to lose their job.

13 38. The testing agency is PPS Health, a California LLC, (“PPS Health”)
14 headquartered in Sherman Oaks, California, d.b.a. Bluestone Safe. PPS Health is
15 a small local company that engages in mostly the sale of health equipment. There
16 is no information on competitive bidding for this contract with Defendant City, or
17 even the request for proposals that were made public. Allegations of corruption
18 with this contract have been rampant as well as claims that another company
19 offered to test free of charge. If so, or even if there was no competitive bid, there
20 can be no justification for burdening religion by charging those claiming a religious
21 exemption for their tests—tests in excess of the number allowed by The Ordinance.

1 According to Defendant City, the total tests allowed should be ONCE WEEKLY
2 AND FREE OF CHARGE WITH TIME OFF PAID. Those with religious
3 exemptions are forced to be tested twice weekly. Although no one is currently
4 being charged for testing while the exemptions are in the review process, if an
5 employee's exemption is ultimately denied, the employee will be invoiced for the
6 cost of all the tests that they have taken with Bluestone, approximately \$230 per
7 pay period, in addition to being terminated. If an employee's exemption is
8 approved, that employee will not have to pay for the tests they have taken.

9 *Provisions of the Ordinance and How Implementation is Differing from its*
10 *Provisions*

11 39. The relevant portions of the Ordinance, in more detail, for purposes
12 of this lawsuit are as follows:

13 a. All City employees must be fully vaccinated or request either a
14 medical or religious exemption and report their status in accord with the City
15 Workplace Safety Standard by October 5, 2021. Fully vaccinated means 2 shots of
16 Moderna or Pfizer (updated by booster shots as determined) or one shot of J&J.
17 Workers must be partially vaccinated (one-shot) by September 7, 2021. (These
18 dates have been extended, but the Ordinance is now in full effect.)

19 b. By October 20, 2021, any new contract with the City must have
20 a provision requiring all workers appearing on a City site to be fully vaccinated.
21 There is no clause for any exemptions. **(Sec. 4.701. (c)4.)** Regardless of status, all

1 employees must report their vaccination status. Additional booster shots may be
2 required. The personnel department maintains records of booster shots.

3 c. **Sec. 4702 Deals with Qualified Exemptions.** All employees
4 have the right to petition for a religious exemption “to be evaluated on a case-by-
5 case basis” consistent with the City procedure for reasonable accommodation
6 requests. The documentation prescribed shall include:

7 i. The applicant may qualify upon the approval of the
8 documentation provided to the appointing authority or designee---may be subject
9 to WEEKLY testing. (But obviously, that does not describe any documentation).
10 [comment in quotations added].

11 ii. If the applicant is reporting regularly to a City worksite
12 he/she shall be subject to WEEKLY tests at NO COST during work hours, if
13 working at home, ad hoc testing will be when reporting to a worksite on an as-
14 needed basis.

15 1. In fact, City employees are being tested TWICE a
16 week and are being charged for the tests-in some cases, the price of testing is to be
17 deducted from their pay at the rate of \$230 per pay period. Additionally, testing is
18 being done “on duty” but is generally not available during work hours, often not
19 available at all, and not uniformly paid for by all City Employers in violation of
20 the FLSA. Additionally, the testing program is different from what The Ordinance
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1 allows and different from the guidance given to private businesses who have been
2 told to provide testing at no cost to not fully vaccinated employees.

3 2. Close contacts that are not fully vaccinated and
4 who have not recently recovered from COVID-19:

5 a. Must be restricted from work. See Return to
6 Work for more details.

7 b. Instruct employees exposed to a laboratory-
8 confirmed case to follow quarantine orders and instructions.¹²

9 3. Since it is those employees with religious
10 exemptions whose free exercise is being burdened by the misuse of this testing
11 program, it is violative of the First Amendment of the U.S. and California
12 Constitutions. There is also a difference among employers as to the return-to-work
13 protocols for those with religious exemptions who have tested positive under this
14 onerous testing program. They are punished unduly whereas asymptomatic
15 vaccinated workers with Omicron continue to work. Those with religious
16 exemptions who test positive are ordered to stay home, while untested vaccinated
17 workers who would test positive for Omicron at a 20.6% rate continue to work, as
18 many will not have severe symptoms, and are not deducted for sick days and spread
19 the virus.

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¹² www.publichealth.lacounty.gov/acd/ncorona2019/workplaceresource/

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iii. **Sec. 4703.** Unvaccinated, partially vaccinated, or unreported workers shall wear masks and observe social distancing with other workers and the public. All not fully vaccinated workers shall be required to participate in an online vaccination training course administered by the personnel department. The City is to monitor progress toward a fully vaccinated workforce and cooperate with labor on steps going forward.

1. This section burdens the free exercise of religion because due to the incredible spread of Omicron which is so highly contagious, even among the vaccinated, these measures are discriminatory when limited to those with exemptions. Neither masks nor vaccines appear to be retarding the spread on Omicron yet no employees other than those with religious exemptions are bearing the cost of this onerous testing program, and the burden of the removal from the workforce, that has been concocted to injure free exercise even though it is not permitted by the Ordinance.

iv. **Sec. 4704.** To be hired, transferred, or promoted, an employee must be fully vaccinated or exempt. By investing such discretion in low-level bureaucrats, as discussed below, The Ordinance punishes religious expression. It is

1 not neutral or generally applicable and may tend to establish
2 a religion, or prejudice a religion.

3 40. On or about February 14, 2022, the City announced that it would be
4 updating its mandatory COVID-19 testing requirements to 1) reduce the COVID-
5 19 testing mandate for unvaccinated employees to once per week, 2) reduce the
6 number of City employee PCR testing locations, and 3) allow employees to submit
7 third-party PCR tests in lieu of testing through Bluestone. Although the City is
8 reducing the testing requirement to once per week, the City maintains the right to
9 increase testing back to twice per week at any time; there is nothing to prevent the
10 City from changing the requirement back.

11 41. Further, as evidenced by the rate at which the City's procedures have
12 frequently been changed, Plaintiff and its members still "remain under a constant
13 threat" that the City will change its procedures to require testing twice weekly
14 again if there is any increase in COVID-19 cases. *See Roman Catholic Diocese of*
15 *Brooklyn v. Cuomo*, 141 S. Ct. 63, 68 (2020).

16 ***The Method of Determining Requested Exemptions***

17 42. The Ordinance does not establish either: 1) what documentation
18 should be used to determine religious exemptions, or 2) the process for doing so.
19 Rather, it incorporates the City's process for determining reasonable
20 accommodations. This process was established for determining medical
21 exemptions, but it has no application to religious exemptions.

1 43. The City has a process for determining reasonable accommodations
2 based on religious and medical reasons. The applications are attached as **Exhibit**
3 **“B”**, including a City form for applying for accommodation in the job testing
4 process. They are all much less intrusive than the forms involved in determining
5 the COVID-19 religious exemption. There is therefore disparate treatment for
6 religious exemptions which must be justified, as argued below, as being narrowly
7 tailored to serve a compelling state interest.

8 44. The forms seeking medical exemptions ask about the condition on
9 which the exemption is based so that the employer can design an accommodation
10 to solve the problem. The employee’s physician is contacted for verification and
11 also for input into the solution. This approach makes no sense in the context of a
12 religious exemption. Comparing the forms used for the medical exemption to the
13 ones developed for the religious exemption, the intrusion is much greater in the
14 case of the latter, showing a high level of distrust and animosity toward religion
15 and entangling personnel departments throughout the City in the religious beliefs
16 of thousands of employees. According to *Masterpiece Cakeshop v. Colorado Civil*
17 *Rights Commission*, 548 U.S. ____ (2018), such state action against religion cannot
18 stand. Additionally, As Justice Scalia opined in *Employment Division, Dept. of*
19 *Human Resources v Smith*, 494 U.S. 872 (1990), the government should not be
20 involved in evaluating the religious beliefs of people.

21

1 45. To be the basis of an exemption based on religious belief, the belief
2 held by the applicant does not have to be a tenet of any recognized religion. *Burwell*
3 *v Hobby Lobby Stores, Inc*, 573 U. S. 682 (2014). Asking for a religious leader or
4 scholar to verify that shows an ignorance of the law at best and outright hostility
5 to religion at worst. Only one-third of U.S. Roman Catholics believe in the
6 doctrine of transubstantiation, a pillar of that faith.¹³ There is also a split among
7 Catholics as to the position on homosexuality. The same sort of division exists
8 among Episcopalians, with those in the United States favoring their full
9 participation in the liturgy and marriage in the church while those in most other
10 countries disagreeing.¹⁴ An Episcopalian priest could opine on either side of the
11 issue of homosexuality. There is a split in the Roman Catholic Church as to these
12 vaccines. Both living Popes are vaccinated but some U.S. bishops have come out
13 against vaccination.¹⁵ This is nothing new. In ancient times, there were riots,
14 political divisions, attacks on churches, etc. over whether Christ was together with
15 God at creation or was the first being created by God. The expression of this
16 difference – Christ being of the same substance of God, or similar substance – is
17 the difference of one letter in Greek. This issue was decided, among many others,
18 in the Council of Nicaea convened by Emperor Constantine. However, it is a good

19
20
21 ¹³ Just one-third of U.S. Catholics agree with their church that Eucharist is body, blood of Christ - Pew Research Center

¹⁴ Stances of Faiths on LGBTQ Issues: Episcopal Church - Human Rights Campaign

¹⁵ U.S. bishops splinter on the morality of taking coronavirus vaccines - Washington Post

1 bet that most Christians can only guess which way it came out and what it is we
2 are supposed to believe.¹⁶

3 46. Although the nature of the documentation that employees must fill out
4 in order to obtain a religious exemption varies from employer to employer within
5 the City, they have certain common features. The documentations currently include
6 1) a form to be filled out by the employee, and 2) a form to be filled out by a person
7 certifying the religious belief of the employee. Both forms are wrong-headed,
8 hostile, and intrusive.

9 **Form #1 – The Employee’s Form (Religious Exemption Request Form)**

10 47. Attached as **Exhibit “C”** is a true and correct example of one such
11 form in current use. A doctorate in divinity or philosophy would be useful in filling
12 out this form. It first asks “Do you regard yourself as having a sincerely held
13 religious belief, practice, or observance that should exempt you from the City’s
14 vaccine requirement?” The employee is then instructed to “...identify the nature
15 of and explain ...[the]sincerely held religious belief, practice or observance ...and
16 how long you have held it.”

17 48. Plaintiff objects that the vaccines were developed from fetal cells or
18 fetal cell lines.

19 49. As far as the inquiry into how long the employee has held the belief,
20 most people have beliefs that evolve over time. It is not unusual for people to

21 _____
¹⁶ <https://en.wikipedia.org/wiki/Homocousion>

1 change their views on issues like abortion over the course of their lives, sometimes
2 more than once.

3 50. The employee is then asked how the sincerely held religious belief,
4 practice, or observance conflicts with the vaccine mandate. That question seems to
5 be unobjectionable. It is the basis of the issue, and if there were any way to make
6 an accommodation, this is the information that is required to do so. However, there
7 is no indication that the City has ever made any effort to accommodate these
8 religious beliefs, the City just wants to pressure employees out of them and into
9 taking the vaccine. The City is hereby challenged for any instances in which it has
10 offered any reasonable accommodations to those with sincerely held religious
11 beliefs other than testing not authorized by the Ordinance.

12 51. Next, the employee is asked to explain how this belief affects his/her
13 life. Why is this any business of the personnel department? This question creates
14 further entanglement for no reason.

15 52. Employees are also asked if they have had any other vaccines as
16 adults. This is irrelevant because this is not a political issue and the inquiry
17 promotes entanglement with religion and the establishment of religion and
18 prejudice against religion.

19 53. Finally, employees are invited to submit articles about their faith and
20 beliefs which apparently the personnel department will evaluate, thus embroiling
21 the City in evaluating religion and religious beliefs.

1 **Form #2 – The Certification (Religious Accommodation Certification)**

2 54. An example of one such form is attached as **Exhibit “D”**. It is to be
3 filled out by a religious leader or scholar, failing that, by someone with personal
4 knowledge of the religious belief, practice, or observance of the employee
5 (“Certifier”). The Certifier is then threatened to fill out the form based only on
6 personal knowledge and is asked to explain the “basis for the assertion” that he/she
7 is a religious leader or scholar or has knowledge of the personal religious beliefs,
8 practices, or observances of the employee. Taken together, the hostility toward
9 religion drips off the pages of these documents. The City intends to warn off
10 Certifiers so that exemptions can be denied. In case the hostility was missed, Mayor
11 Garcetti expressed his true animus toward employees seeking religious or medical
12 accommodations for the vaccine. Mayor Garcetti was quoted on September 14,
13 2021, as stating:

14 “This policy allows for medical and religious exemptions to protect
15 certain workers' health and constitutional rights, but let me be
16 absolutely clear: We will not tolerate the abuse of these exemptions by
17 those who simply don't want to get vaccinated.” “To anyone thinking
18 about filing a disingenuous exemption request, I strongly urge that you
19 reconsider. Every request will be carefully vetted, and our goal will
20 always be to get as many Angelenos vaccinated as possible,” Mayor
21 Garcetti’s goal of getting as many Angelenos vaccinated. Nearly 11%
of LA City Employees Plan to Seek Exemption From Vaccine Mandate
| KFI AM 640 (iheart.com).

Mayor Garcetti made clear that it is not a level playing field—the charge to
personnel departments is to reject as many requests for exemptions as possible

1 to fulfill the “goal of getting as many Angelinos vaccinated as possible.” This
2 is adverse and hostile to religion. It puts not only a thumb but a huge fist on
3 the scale of justice and tells the personnel departments exactly what the Mayor
4 wants them to do.

5 55. The Certifier then must state that the employee is a member of his/her
6 religious organization or belief system. Supreme Court precedent does not require
7 that an applicant be a member of any organized religion. Regardless, the Certifier
8 must certify that a tenet practice or observance of the religion requires employees
9 to abstain from taking the COVID-19 vaccine. This too is not required by Supreme
10 Court precedent yet apparently could be grounds for denying the exemption. If the
11 answer is yes, the Certifier is asked to cite the specific tenet, practice, or observance
12 that conflicts with the taking of the vaccine and to explain both how it is followed
13 and how it applies to the employee in this case.

14 56. The City is to decide these requests for religious exemptions on a
15 case-by-case basis. There are apparently over 11,600 workers who are
16 unvaccinated and either unreported or applying for religious or medical
17 exemptions. It seems clear that: 1) There is a high degree of discretion given to
18 low-level bureaucrats in determining the sincerity and other issues related to the
19 free exercise of religion. A cornerstone of justice is that like cases be treated alike.
20 There is no accountability of *stare decisis* in this system. 2) There is excessive
21 entanglement between state and religion. 3) The implementation of the system has

1 deviated from the terms of the Ordinance. 4) There is an excessive burden upon
2 the free exercise of religion. 5) There is hostility toward religion. 6) There is a
3 probable FLSA violation. 7) The Ordinance is not narrowly tailored to achieve a
4 compelling state interest. There are alternatives that would be more effective with
5 a lesser burden on the free exercise of religion, and 8) the testing system places an
6 excessive burden on religion. 9) There is irreparable harm that needs immediate
7 injunctive relief. 10) The system is rigged and the results show it.

8 57. By requiring that the beliefs be central to organized religion, by
9 vesting so much discretion in personnel departments, by failing to prescribe a
10 uniform method of processing religious exemptions, and by allowing intrusive and
11 hostile entanglement and judgments about religious beliefs, the City has run afoul
12 of the U.S. Supreme Court precedent. As Justice Scalia wrote:

13 The free exercise of religion means, first and foremost, the right to
14 believe and profess whatever religious doctrine one desires. Thus, the
15 First Amendment obviously excludes all "governmental regulation of
16 religious *beliefs* as such." *Sherbert v. Verner, supra*, at 402. The
17 government may not compel affirmation of religious belief, see
18 *Torcaso v. Watkins*, 367 U.S. 488 (1961), punish the expression of
19 religious doctrines it believes to be false, *United States v. Ballard*, 322
20 U.S. 78, 86-88 (1944), impose special disabilities on the basis of
21 religious views or religious status, see *McDaniel v. Paty*, 435 U.S. 618
(1978); *Fowler v. Rhode Island*, 345 U.S. 67, 69 (1953); cf. *Larson v.*
Valente, 456 U.S. 228, 245 (1982), or lend its power to one or the other
side in controversies over religious authority or dogma, see
Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial
Presbyterian Church, 393 U.S. 440, 445-452 (1969); *Kedroff v. St.*
Nicholas Cathedral, 344 U.S. 94, 95-119 (1952); *Serbian Eastern*
Orthodox Diocese v. Milivojevich, 426 U.S. 696, 708-725 (1976).

1 *Employment Div. v. Smith*, 494 U.S. 872, 877 (1990); *Cf Hernandez v.*
2 *Commission*, 490 U.S. 680, 699 (1988).

3 The Ordinance is also fatally defective and unconstitutional because it: 1)
4 creates such involvement in weighing, approving, and disapproving of religious
5 beliefs, tenets, and observances and 2) creates a religious gerrymander against
6 Christians opposed to abortion. As Justice Kennedy observed in a seminal First
7 Amendment case involving the Santeria religion:

8 In our Establishment Clause cases, we have often stated the principle
9 that the First Amendment forbids an official purpose to disapprove of
10 a particular religion or of religion in general. *See, e.g., Board of Ed. of*
11 *Westside Community Schools (Dist. 66) v. Mergens*, 496 U.S. 226, 248
12 (1990) (plurality opinion); *School Dist. of Grand Rapids v. Ball*, 473
13 U.S. 373, 389 (1985); *Wallace v. Jaffree*, 472 U.S. 38, 56 (1985);
14 *Epperson v. Arkansas*, 393 U.S. 97, 106-107 (1968); *School Dist. of*
15 *Abington v. Schempp*, 374 U.S. 203, 225 (1963); *Everson v. Board of*
16 *Ed. of Ewing*, 330 U.S. 1, 15-16 (1947). These cases, however, for the
17 most part, have addressed governmental efforts to benefit religion or
18 particular religions, and so have dealt with a question different, at least
19 in its formulation and emphasis, from the issue here. Petitioners allege
20 an attempt to disfavor their religion because of the religious ceremonies
21 it commands, and the Free Exercise Clause is dispositive in our
 analysis.

 At a minimum, the protections of the Free Exercise Clause pertain if
 the law at issue discriminates against some or all religious beliefs or
 regulates or prohibits conduct because it is undertaken for religious
 reasons. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508
 U.S. 520, 532 (1993). And:

 We reject the contention advanced by the city, *see* Brief for Respondent
 15, that our inquiry must end with the text of the laws at issue. Facial
 neutrality is not determinative. The Free Exercise Clause, like the
 Establishment Clause, extends beyond facial discrimination. The Clause
 "forbids subtle departures from neutrality," *Gillette v. United States*, 401
 U.S. 437, 452 (1971), and "covert suppression of particular religious

1 beliefs," *Bowen v. Roy, supra*, at 703 (opinion of Burger, C.J.). Official
2 action that targets religious conduct for distinctive treatment cannot be
3 shielded by mere compliance with the requirement of facial neutrality.
4 The Free Exercise Clause protects against governmental hostility which
5 is masked as well as overt. "The Court must survey meticulously the
6 circumstances of governmental categories to eliminate, as it were,
7 religious gerrymanders. "*Walz v. Tax Comm'n of New York City*, 397
8 U.S. 664, 696 (1970) (Harlan, J., concurring). *Church of the Lukumi*
9 *Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993).

6 58. Religion is targeted first in the testing because 1) they are being tested
7 more often than allowed, 2) at the cost of employees which is not allowed, 3)
8 without adequate provision for testing facilities or for pay for the time involved,
9 4) the unvaccinated who would test 20.6% positive if tested are not being tested,
10 and 5) with the result that unvaccinated employees who likely have COVID at the
11 rate of 20% are not tested and not separated from work, forced to use sick days and
12 suffer other burdens while those who claim religious exemptions are burdened with
13 the ongoing cost of the testing and/or the adverse change in terms of their
14 employment. Religion is targeted in the exemption process because the unbridled
15 discretion renders the protocol, not of neutral and generally applicable application.
16 It makes employees vulnerable to low-level bureaucrats.

17 ***Failure to Provide Exemption Process for Those Who Do Not Give Informed***
18 ***Consent to Participate in Experimental Trials***

19 59. The Fourteenth Amendment provides that no State shall "deprive any
20 person of life, liberty, or property, without due process of law." This clause
21 "guarantees more than fair process, and the 'liberty' it protects includes more than

1 the absence of physical restraint.” *Washington v. Glucksberg*, 521 U.S. 702, 719
2 (1997). Rights are protected under the Due Process Clause of the Fourteenth
3 Amendment if they are “so rooted in the tradition and conscience of our people as
4 to be ranked as fundamental” or if such rights reflect “basic values implicit in the
5 concept of ordered liberty” such that “neither liberty nor justice would exist if they
6 were sacrificed.” *See Moore v. City of East Cleveland Ohio*, 431 U.S. 494, 503
7 (1977); *Griswold v. Connecticut*, 381 U.S. 479, 500 (1965); *Palko v. Connecticut*,
8 302 U.S. 319, 325 (1937); *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934).

9 60. Further, the United States Supreme Court has consistently upheld that
10 the rights to bodily integrity, autonomy, and medical treatment choice are
11 fundamental rights protected by the Fourteenth Amendment of the Constitution.
12 *See Albright v. Oliver*, 510 U.S. 266 (1994) (due process accorded to matters
13 involving marriage, family, procreation and the right to bodily integrity); *Planned*
14 *Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992),
15 (Constitutional liberty interest includes right to bodily integrity, a right to control
16 one's person); *Schmerber v. California*, 384 U.S. 757 (1966) (the integrity of an
17 individual's person is a cherished value of our society); *Union Pacific R. Co. v.*
18 *Botsford*, 141 U.S. 250 (1891) (no right held more sacred or more carefully
19 guarded than the right of every individual to be in possession and control of his
20 own person, free from restraint or interference of others). Courts have particularly
21 recognized such Constitutional autonomy rights in the medical context. *See, e.g.,*

1 *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261 (1990)
2 (Constitution grants competent person right to refuse lifesaving hydration and
3 nutrition); *Roe v Wade*, 410 U.S. 113 (1973) (women have Constitutional right to
4 control decision on whether to obtain an abortion); *Griswold v. Connecticut*, 381
5 U.S. 479 (1965) (restriction on citizens from receiving contraceptives from their
6 physician an unconstitutional intrusion); *Rochin v. California*, 342 U.S. 165 (1952)
7 (forcible stomach pumping of accused violates due process and is conduct which:
8 "shocks the conscience"); *Skinner v. State of Oklahoma*, 316 U.S. 535 (1942)
9 (sterilization performed without consent deprives the individual of basic liberty).

10 61. Further, 21 C.F.R. § 50.20 provides, in relevant part, that no person
11 may be required to participate in a vaccine trial – informed consent is required.
12 Here, as a result of Operation Warp Speed, the currently available COVID-19
13 vaccines were developed, tested, and approved at an accelerated rate, the likes of
14 which we have never seen before. As discussed above, Phase III vaccine trials
15 normally occur over the course of several years, because it can take years for the
16 side effects of a new vaccine to manifest themselves. Moreover, since the COVID-
17 19 vaccines have become available, numerous side effects and adverse events have
18 been reported to the Vaccine Adverse Event Reporting Systems (“VAERS”).¹⁷

19
20 ¹⁷ In 1990, the Vaccine Adverse Event Reporting Systems (“VAERS”) was established as a national early warning
21 system to detect possible safety problems in U.S. licensed vaccines. VAERS is a passive reporting system,
meaning it relies on individuals to voluntarily send in reports of their experiences to CDC and FDA. VAERS is
useful in detecting unusual or unexpected patterns of adverse event reporting that might indicate a possible safety
problem with a vaccine. This way, VAERS can provide CDC and FDA with valuable information that additional
work and evaluation is necessary to further assess a possible safety concern.

1 Notably, there were 4,434 death reports and over 12,619 serious injuries reported
2 to the CDC's VAERS database from COVID-19 vaccines through May 10, 2021.
3 By comparison, from July 1, 1997, until December 31, 2013, VAERS received 666
4 adult death reports.¹⁸ The flu vaccines are linked to 20–30 death reports a year,
5 according to Dr. Peter McCullough¹⁹, and those 20–30 death reports come with
6 considerably more vaccines administered.²⁰ Arguably, if the experimental vaccine
7 was any other vaccine or drug, it would already have been removed from the
8 market. Usually, a new drug is withdrawn after 50 deaths, which is not typical
9 because the FDA has a strict approval process. The COVID-19 vaccines have been
10 exempted from the approval process, instead of being temporarily "authorized" for
11 emergency use.

12 62. Thirty-five hundred plus (3,500 +) reports are 70 times the normal
13 threshold for pulling a drug from the market. Although this is raw data, previous
14 VAERS studies have shown that only 1-10% of vaccine-related deaths are reported
15 to VAERS —or less. The COVID vaccines are adding a year's worth of VAERS
16 reports every week. In just four months, more adverse reports were added to the
17 VAERS database than any single vaccine has had cumulatively over the past 31
18 years. This is clearly a safety signal that further studies need to be done, and

19 ¹⁸ Pedro L. Moro, Jorge Arana, Mria Cano, Paige Lewis, and Tom T. Shimabukuro, Deaths Reported to the
20 Vaccine Adverse Event Reporting System, United States, 1997-2013, VACCINES, CID 2015:61 (September
2015).

¹⁹ Dr. McCullough is vice chief of medicine at Baylor University Medical Center and the most cited American
21 medical doctor on COVID-19 at the National Library of Medicine.

²⁰ Dr. McCullough estimated the flu shot at 195 million people annually, while over 153 million have currently
received COVID vaccinations. The disparity between these two vaccine groups is staggering.

1 Plaintiffs should not be forced to participate in these dangerous trials as a condition
2 for employment. Thus, the rights at issue here – the rights to be free from intrusion
3 into bodily integrity, autonomy, and medical choice – have clearly been violated.

4 **FIRST CLAIM FOR RELIEF**
5 **FOR AN INJUNCTION AND ATTORNEYS' FEES**
6 **(42 U.S.C. §§1988, 2000 et seq.)**
7 *[Against all Defendants]*

8 63. The preceding paragraphs are hereby incorporated as though fully set
9 forth herein.

10 64. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e – 2, et
11 seq., provides broad workplace protections for people of sincere religious faith.

12 65. Among other protections, it is generally unlawful for an employer to
13 “exclude or to suspend an employee, or otherwise to discriminate against, any
14 individual because of his race, color, religion, sex, or national origin.” 42 U.S.C. §
15 2000e-2(c)(1).

16 66. Within this framework, Title VII requires an employer to reasonably
17 accommodate an employee’s sincere religious observances and practices, unless
18 such an accommodation would impose an undue hardship on the employer.

19 67. Pursuant to 42 U.S.C. § 2000e (j), “religion” in the employment
20 context is defined as “all aspects of religious observance and practice, as well as
21 belief . . .” In view of this broad definition by Congress, it cannot be said that any
22 employer covered by Title VII may legally or constitutionally require an employee

1 to belong to any “bona fide” religious organization as a condition for receiving an
2 accommodation.

3 68. Title VII protects the Plaintiff, its members, and other City
4 employees’ rights to request religious or medical accommodations, as needed.
5 Given that the employer is required to evaluate and determine through the
6 interactive process whether reasonable accommodations can occur, the employee
7 must be provided a reasonable opportunity to submit such requests.

8 69. Plaintiff’s members have strong, sincerely held religious beliefs that
9 taking the COVID-19 vaccines would be morally wrong for them.

10 70. Plaintiffs have sought to notify their supervisors of the conflict and
11 have requested accommodations and religious exemptions.

12 71. Initially, Defendant City has failed to provide any process for
13 members of Plaintiff or other City employees to submit a request for medical or
14 religious accommodation. Defendants went so far as to obstruct them and other
15 City employees to submit their requests. In particular, the hostile work
16 environment present at the Police Department, and other departments were
17 obstructing and interfering with the employees’ and Plaintiffs’ right to request a
18 religious accommodation. Then, Defendants distributed Religious Exemption
19 Procedures that require the employee to answer several unlawful questions
20 designed to determine whether the employee has a “correct” or “proper” or “valid”
21 understanding of religious doctrine, or whether an employee’s sincerely held

1 religious beliefs are shared broadly among other faithful, or whether a low-level
2 bureaucrat approved of the belief or the declaration of a religious leader. These
3 questions violate the legal protections afforded employees in that their religious
4 beliefs need not be acceptable, logical, consistent, or comprehensible to others in
5 order to merit [legal] protection.

6 72. This procedure creates a regimen that is not neutral and generally
7 applied to all religions. It is ripe for abuse. It creates excessive state entanglement
8 with religion; inconsistent results; the establishment of one religion and the
9 prejudice of others. It fails to serve a compelling state interest because Omicron is
10 rampaging through the entire workforce which is not being tested –only those
11 seeking a religious exemption are tested.

12 73. In addition to the unlawful questions in the Religious Exemption
13 Form, Defendants are requiring the employees to submit a Religious
14 Accommodation Certification Form. This form requires the employee to obtain
15 third party verification under the penalty of perjury not only as to whether the
16 employee has a sincerely held religious belief but also as to whether the employee
17 is actually “a member of a religious organization or religious belief system”,
18 among many other unlawful items. This requirement violates the protections of the
19 Free Exercise clause and is contrary to prevailing U.S. Supreme Court precedent.

20 74. Further, employees become ensnared in an unauthorized testing
21 regimen. Although the Ordinance only permits weekly testing, those with religious

1 exemptions are tested twice a week. Although the testing is required to be free of
2 charge, those with religious exemptions are to be charged \$230 per pay period.
3 Although testing is a requirement of employment, no pay is uniformly offered by
4 City departments for time off for testing in violation of FLSA. Taken together the
5 testing regimen is calculated to impose such a burden upon religion that employees
6 will abandon their sincerely held beliefs.

7 75. The testing regimen is also discriminatory as to religion. Over 80% of
8 cases of COVID-19 in L.A. County are the Omicron variant. Those with religious
9 exemptions are tested for it and may be removed from work. They must use their
10 sick days, and when those run out, they will be unpaid. Yet, the vaccinated, who
11 may be asymptomatic carriers of Omicron, is not tested. This is yet another burden
12 upon religion for the purpose of compelling abandonment of sincerely held
13 religious beliefs.

14 76. Plaintiff and its members are further entitled to temporary,
15 preliminary, and permanent injunctive of two kinds: First relief requiring the City
16 and Defendants to cease and desist from executing any method of implementing
17 the religious exemption or testing regimen that fails to comply with the Ordinance.
18 Specifically, 1) testing may only be weekly, 2) free, 3) during working hours, and
19 4) arranged for by the City. The City should also be enjoined from discriminating
20 in testing between those with religious exemptions and other employees. It should
21 show cause as to why the workforce is not being tested for Omicron, or COVID

1 generally. It should also present a uniform policy for return to work for those with
2 COVID or be enjoined from docking the employees' pay or sick days in the interim.

3 77. Second, the current method of processing religious exemptions should
4 be enjoined Citywide, from discriminating against Plaintiff, or its members in the
5 terms of their employment, or the terms of the employment of any employee who
6 has claimed a religious objection to taking the vaccine pending the resolution of
7 this case.

8 78. Specifically, the City should be enjoined from 1) requiring the
9 submission of Religious Exemption Certification Forms or any showing that
10 employees are asserting a belief that is central to any organized or recognized
11 religion. 2) utilizing a system of processing exemptions that is non-uniform and
12 invests discretion in personnel departments without guidelines based upon U.S.
13 Supreme Court precedent. 3) employing an exemption system that has no internal
14 review process for collection of results preventing a system of stare decisis from
15 being established; 4) using the current Religious Exemption Forms; 5) Denying
16 any applications for religious exemptions by qualified/eligible employees pending
17 further order of this court. such employees should be subjected only to the method
18 of testing authorized by the Ordinance.

19 79. Plaintiff, its members, and thousands of City employees are faced
20 with imminent and ongoing losses of employment and/or the free exercise of their
21 First Amendment Rights. This constitutes irreparable injury that should not be

1 countenanced. Granting the exemptions on a temporary basis with testing that is
2 authorized by the Ordinance is an alternative. Accordingly, Defendants should be
3 subject to temporary, preliminary, and permanent injunctive relief to prevent
4 imminent irreparable injury in a case in which Plaintiff will probably succeed on
5 the merits.

6 80. Plaintiff, and its members, are further entitled to temporary,
7 preliminary, and permanent injunctive relief requiring the City and department
8 heads to ensure that all harassment and discrimination against Plaintiff, its
9 members, and other employees who remain unvaccinated, who are seeking the
10 religious exemptions.

11 81. Plaintiff and its members are entitled to their reasonable costs of suit
12 and attorneys' fees.

13 82. Plaintiff and its members are entitled to such other and further relief
14 as the Court may deem appropriate.

15 **SECOND CLAIM FOR RELIEF**
16 **FOR INJUNCTIVE RELIEF AND ATTORNEYS' FEES**
17 **(42 U.S.C. §§1983, 1988, et seq.)**
[Against all Defendants]

18 83. The preceding paragraphs are hereby incorporated as though fully set
19 forth herein.

20 84. Plaintiff's members have strong, sincerely held religious beliefs that
21 taking the COVID-19 vaccines would be morally wrong for them.

1 85. Plaintiff's members have sought to notify their supervisors of the
2 conflict and have requested accommodations and religious exemptions.

3 86. Initially, Defendants failed to provide any process for members of
4 Plaintiff or other City employees to submit a request for medical or religious
5 accommodation. Defendants went so far as to obstruct them and other City
6 employees to submit their requests. In particular, the hostile work environment
7 present at the Police Department, and other departments were obstructing and
8 interfering with the employees' and Plaintiffs' right to request a religious
9 accommodation. Then, Defendants distributed Religious Exemption Procedures
10 that require the employee to answer several unlawful questions designed to
11 determine whether the employee has a "correct" or "proper" or "valid"
12 understanding of religious doctrine, or whether any employee's sincerely held
13 religious beliefs are shared broadly among other faithful, or whether a low-level
14 bureaucrat approved of the belief or the declaration of a religious leader. These
15 questions violate the legal protections afforded employees in that their religious
16 beliefs need not be acceptable, logical, consistent, or comprehensible to others in
17 order to merit [legal] protection.

18 87. This procedure creates a regimen that is not neutral and generally
19 applied to all religions. It is ripe for abuse. It creates excessive state entanglement
20 with religion; inconsistent results; the establishment of one religion and the
21 prejudice of others. It fails to serve a compelling state interest because Omicron is

1 rampaging through the entire workforce which is not being tested – only those
2 seeking a religious exemption are tested.

3 88. Further, employees become ensnared in an unauthorized testing
4 regimen. Although the Ordinance only permits weekly testing, those with religious
5 exemptions are tested twice a week. Although the testing is required to be free of
6 charge, those with religious exemptions are to be charged \$230 per pay period.
7 Although testing is a requirement of employment, no pay is uniformly offered by
8 City departments for time off for testing in violation of FLSA. Taken together the
9 testing regimen is calculated to impose such a burden upon religion that employees
10 will abandon their sincerely held beliefs.

11 89. The testing regimen is also discriminatory as to religion. Over 80% of
12 cases of COVID in L.A. County are the Omicron variant. Those with religious
13 exemptions are tested for it and may be removed from work. They must use their
14 sick days, and when those run out, they will be unpaid. Yet, the vaccinated, who
15 may be asymptomatic carriers of Omicron, is not tested. This is yet another burden
16 upon religion for the purpose of compelling abandonment of sincerely held
17 religious beliefs.

18 90. Plaintiff, and its members, are further entitled to temporary,
19 preliminary, and permanent injunctive of two kinds: First relief requiring the City
20 and Defendants to cease and desist from implementing any method of
21 implementing the religious exemption or testing regimen that fails to comply with

1 the Ordinance. Specifically, 1) testing may only be weekly, 2) free, 3) during
2 working hours, and 4) arranged for by the City. The City should also be enjoined
3 from discriminating in testing between those with religious exemptions and other
4 employees. It should show cause as to why the workforce is not being tested for
5 Omicron, or COVID generally. It should also present a uniform policy for return
6 to work for those with COVID or be enjoined from docking employees' pay or sick
7 days in the interim.

8 91. Second, the current method of processing religious exemptions should
9 be enjoined Citywide, and a constitutional law master should be appointed to
10 oversee the establishment of a new procedure that complies with U.S. Supreme
11 Court precedent, with the input of the parties, and the imprimatur of this court. In
12 the meantime, The City should be enjoined from discriminating against Plaintiff,
13 or its members, in the terms of their employment, or any employee who has
14 claimed a religious objection to taking the vaccine pending the resolution of this
15 case.

16 92. Specifically, the City should be enjoined from 1) requiring the
17 submission of Religious Exemption Certification Forms or any showing that
18 employees are asserting a belief that is central to any organized or recognized
19 religion. 2) utilizing a system of processing exemptions that is non-uniform and
20 invests discretion in personnel departments without guidelines based upon
21 Supreme Court precedent. 3) employing an exemption system that has no internal

1 review process for collection of results preventing a system of stare decisis from
2 being established; 4) using the current Religious Exemption Forms; 5) Denying
3 any applications for religious exemptions by qualified/eligible employees pending
4 further order of this court. such employees should be subjected only to the method
5 of testing authorized by the Ordinance.

6 93. Plaintiff, its members, and thousands of City employees are faced
7 with imminent and ongoing losses of employment and/or the free exercise of their
8 First Amendment Rights. This constitutes irreparable injury that should not be
9 countenanced. Granting the exemptions on a temporary basis with testing that is
10 authorized by the Ordinance is an alternative. Accordingly, Defendants should be
11 subject to temporary, preliminary, and permanent injunctive relief to prevent a
12 uniform policy for return to work for those with COVID or be enjoined from
13 docking employees pay or sick days in the interim.

14 94. As set forth above, the First Amendment rights of members of
15 Plaintiff and thousands of other employees of City have been unnecessarily
16 burdened and threatened by the religious exemption process and testing program.
17 Their First Amendment rights have been violated by the Ordinance, as passed and
18 as applied to them. Their rights have been burdened. Their terms of employment
19 were threatened and impacted. There has been excessive entanglement with
20 religion, hostility toward religion, the possible establishment of or prejudice
21 against religion, There is no consistency, no stare decisis, no due process.

1 95. This Ordinance and the procedures pursued pursuant to it by the 40
2 departments of the City create a regimen that is not neutral and generally applied
3 as to all religions. It is ripe for abuse, and actual abuse has ensued. It creates
4 excessive state entanglement with religion; inconsistent results; the establishment
5 of one religion and the prejudice of others. It fails to serve a compelling state
6 interest because Omicron is rampaging through the entire workforce which is not
7 being tested- only those seeking a religious exemption are being tested and they
8 are tested in terms not authorized by the Ordinance but in a much harsher and more
9 expensive manner intended by the departments to bully them out of their religious
10 beliefs.

11 96. Plaintiff, its members, and thousands of City employees are faced
12 with imminent and ongoing losses of employment and/or the free exercise of their
13 First Amendment Rights. This constitutes irreparable injury that should not be
14 countenanced. Granting the religious exemptions on a temporary basis subject to
15 the testing authorized by the Ordinance is an acceptable temporary alternative.
16 Defendants should be subject to temporary, preliminary, and permanent injunctive
17 relief to prevent imminent irreparable injury in a case in which Plaintiff will
18 probably succeed on the merits.

19 97. Plaintiff and its members are further entitled to temporary,
20 preliminary, and permanent injunctive relief requiring the City to ensure that all
21

1 harassment and discrimination against Plaintiffs and other employees based on
2 religion, who remain unvaccinated.

3 98. Plaintiff and its members are entitled to their reasonable costs of suit
4 and attorneys' fees.

5 99. Plaintiff and its members are entitled to such other and further relief
6 as the Court may deem appropriate.

7 **THIRD CLAIM FOR RELIEF**
8 **FOR INJUNCTIVE RELIEF AND ATTORNEYS' FEES**
9 **(42 U.S.C. §§1983, 1988, et seq.)**
10 *[Against all Defendants]*

11 100. The preceding paragraphs are hereby incorporated as though fully set
12 forth herein.

13 101. Defendant City has violated Plaintiff and its members of their
14 fundamental rights to bodily integrity, bodily autonomy, and medical choice,
15 guaranteed on the state level through the 14th Amendment of the U.S. Constitution.
16 *See Albright v. Oliver*, 510 U.S. 266 (1994) (due process accorded to matters
17 involving marriage, family, procreation and the right to bodily integrity); *Planned*
18 *Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992),
19 (Constitutional liberty interest includes right to bodily integrity, a right to control
20 one's person); *Schmerber v. California*, 384 U.S. 757 (1966) (the integrity of an
21 individual's person is a cherished value of our society); *Union Pacific R. Co. v.*
Botsford, 141 U.S. 250 (1891) (no right held more sacred or more carefully

1 guarded than the right of every individual to be in possession and control of his
2 own person, free from restraint or interference of others).

3 102. Plaintiff, its members, and thousands of other City employees have
4 been threatened for choosing not to take an experimental vaccine which federal
5 law states cannot be mandated because insufficient trials have been conducted and
6 its long-term effects are not known. Currently, there are many new reports of
7 adverse effects and even deaths resulting from the experimental vaccine.

8 103. 21 C.F.R. § 50.20 provides, in relevant part, that no person may be
9 required to participate in a vaccine trial – informed consent is required.

10 104. Plaintiff, its members, and thousands of other City employees do not
11 give their informed consent to participate in these experimental trials.

12 105. Plaintiff's members and other City employees should not be forced to
13 participate in these dangerous trials as a condition for employment.

14 106. As such, the City should be 1) enjoined from requiring all employees
15 who do not give their informed consent to participate in these experimental trials
16 to take unpaid leave or be terminated, absent a religious or medical exemption.
17 Further, the City should be 2) mandated to provide an exemption process for those
18 employees who do not give their informed consent to participate in the COVID-19
19 vaccine trials, similar to that of those employees seeking religious and/or medical
20 exemptions pending further order of this court.

21

1 107. Plaintiff, its members, and thousands of City employees are faced
2 with imminent and ongoing losses of employment and/or the exercise of their
3 fundamental rights to bodily integrity, autonomy, and medical choice. This
4 constitutes irreparable injury that should not be countenanced. Granting
5 exemptions to those employees who do not give their informed consent to
6 participate in the COVID-19 experimental vaccine trials on a temporary basis
7 subject to the testing authorized by the Ordinance is an acceptable temporary
8 alternative. Defendants should be subject to temporary, preliminary, and
9 permanent injunctive relief to prevent imminent irreparable injury in a case in
10 which Plaintiff will probably succeed on the merits.

11 108. Plaintiff and its members are further entitled to temporary,
12 preliminary, and permanent injunctive relief requiring the City to ensure that all
13 harassment and discrimination against Plaintiff's members and other employees
14 based on religion, who remain unvaccinated.

15 109. Plaintiff and its members are entitled to their reasonable costs of suit
16 and attorneys' fees.

17 110. Plaintiff and its members are entitled to such other and further relief
18 as the Court may deem appropriate.

19 ///

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21 ///

1 be ridiculed or subject to a steam roller of adverse public statements by high-level
2 public officials of the City.

3 115. Plaintiffs have sought to have their supervisors process their requests
4 for accommodations in a reasonable and non-judgmental manner. However, this
5 has not happened. The preclusive presumption is that either the beliefs must be
6 abandoned or there will be consequences, even if the exemption is granted. There
7 is a policy and custom to bully employees out of their religious exemptions.

8 116. Initially, Defendants failed to provide any process for Plaintiffs or
9 other City employees to submit a request for medical or religious accommodation.
10 Defendants went so far as to obstruct the employees from submitting their requests.
11 Now, the exemptions, and the religious scholars who must support them are met
12 with hostility and derision.

13 117. Members of Plaintiff have been discriminated against because of their
14 religion for the reasons set forth above. Additionally, those with religious
15 exemptions are tested twice weekly which is not allowed by the Ordinance while
16 Omicron rampages through the vaccinated workforce which the City does not
17 bother to test but, if it did, the positive rate would exceed 20%. Members of
18 Plaintiff must pay for their testing and suffer the consequences of positive tests
19 while the vaccinated (those with no religious objections) do not face these burdens.

20 118. Plaintiff, its members, and thousands of City employees are faced
21 with imminent and ongoing losses of employment, and other adverse terms of

1 employment and/or the free exercise of their First Amendment Rights. This
2 constitutes irreparable injury that should not be countenanced. Temporary granting
3 of the exemptions subject to the testing allowed by the Ordinance is an acceptable
4 interim solution. Defendants should be subject to temporary, preliminary, and
5 permanent injunctive relief to prevent imminent irreparable injury in a case in
6 which Plaintiff will probably succeed on the merits.

7 119. Plaintiff, and its members, are further entitled to temporary,
8 preliminary, and permanent injunctive relief requiring the City to ensure that all
9 harassment and discrimination against Plaintiffs and other employees based on
10 religion, who remain unvaccinated.

11 120. Plaintiff and its members are further entitled to temporary,
12 preliminary, and permanent injunctive of two kinds: First relief requiring the City
13 and Defendants to cease and desist from implementing any method of
14 implementing the religious exemption or testing regimen that fails to comply with
15 the Ordinance. Specifically, 1) testing may only be weekly, 2) free, 3) during
16 working hours, and 4) arranged for by the City. the City should also be enjoined
17 from discriminating in testing between those with religious exemptions and other
18 employees. It should show cause as to why the workforce is not being tested for
19 Omicron, or COVID generally. It should also pay any employee who has claimed
20 a religious objection to taking the vaccine pending the resolution of this case.

21

1 121. Second, the current method of processing religious exemptions should
2 be enjoined Citywide, and a constitutional law master should be appointed to
3 oversee the establishment of a new procedure that complies with U.S. Supreme
4 Court precedent, with the input of the parties, and the imprimatur of this court. In
5 the meantime, The City should be enjoined from discriminating against Plaintiff,
6 or its members, in the terms of their employment, or any employee who has
7 claimed a religious objection to taking the vaccine pending the resolution of this
8 case.

9 122. Specifically, the City should be enjoined from 1) requiring the
10 submission of Religious Exemption Certification Forms or any showing that
11 employees are asserting a belief that is central to any organized or recognized
12 religion. 2) utilizing a system of processing exemptions that is non-uniform and
13 invests discretion in personnel departments without guidelines based upon
14 Supreme Court precedent. 3) employing an exemption system that has no internal
15 review process for collection of results preventing a system of stare decisis from
16 being established; 4) using the current Religious Exemption Forms; 5) Denying
17 any applications for religious exemptions by qualified/eligible employees pending
18 further order of this court. such employees should be subjected only to the method
19 of testing authorized by the Ordinance.

20 123. Plaintiff, and its members, are entitled to their reasonable costs of suit
21 and attorneys' fees.

1 124. Plaintiff, and its members, are entitled to such other and further relief
2 as the Court may deem appropriate.

3 **FIFTH CLAIM FOR RELIEF**
4 **FOR DECLARATORY RELIEF AND ATTORNEY'S FEES**
5 **(28 U.S.C. §§2201, 2202)**
6 *(Against All Defendants)*

7 125. Plaintiff hereby incorporates and realleges the preceding paragraphs
8 as though fully set forth herein.

9 126. A case and controversy have now arisen and exists between
10 Defendants on the one hand and Plaintiff, its members, and other employees of the
11 City on the other, who share sincerely held religious beliefs that compel them to
12 resist submitting to the vaccine. ("Controversy").

13 127. The Controversy may be described as follows:

14 a. The City believes that the Ordinance is valid, enforceable,
15 neutral as to religion, generally applicable, and does not unnecessarily burden the
16 free exercise of religion.

17 b. The City does not believe that The Ordinance creates an
18 excessive entanglement with religion.

19 c. The City does not believe that the differences in the manner in
20 which The Ordinance is enforced, department to department, or the great latitude
21 given to personnel departments is a problem that needs to be rectified.

1 d. Apparently, the City does not believe that the differences
2 between what The Ordinance provides and how it is being implemented are a cause
3 for concern.

4 e. The City sees no issue in the many derogatory statements that
5 its officials have made concerning the employees who have requested or planned
6 to request religious exemptions.

7 f. The City sees no problem having low-level bureaucrats with no
8 background or education in divinity school or philosophy evaluating declarations
9 by religious scholars and clerics.

10 g. The City sees no difficulty with the complete lack of stare
11 decisis on the evaluations of the exemptions; or any control over whether prejudice
12 is being exercised for or against any religion in the process.

13 h. The City sees no problem with the complete lack of guidelines
14 given to personnel departments for evaluating these requests for exemptions.

15 i. Although the Ordinance allows for testing those exempted once
16 a week, the City had no problem testing them twice a week; and charging them for
17 the test although the Ordinance provides that testing is to be free.

18 j. Although FLSA requires employers to pay for time spent
19 satisfying job requirements such as COVID testing, the City has no problem if
20 some Departments fail to do so.

21

1 k. Although Omicron is rampaging through California, and as
2 much as 90% of new cases are of that variant, and although the vaccinated are
3 falling prey to it at an alarming rate, and further, although testing the vaccinated
4 would yield at least a 20% positive return rate, the City has no problem testing only
5 those exempted.

6 128. Plaintiff and its members have a problem with all of the items listed
7 in paragraph 127. Plaintiff and its members believe that the Ordinance, as passed
8 and as implemented, violates their rights under the First Amendment. It is in need
9 of a serious rewrite. Hence, the following declaration is sought:

- 10 a. The religious exemption and testing portions of the Ordinance,
11 taken together, violate the First Amendment rights of those
12 seeking religious exemptions.
- 13 b. The religious exemption and testing portions of the Ordinance,
14 taken together, violate the rights of those seeking religious
15 exemptions under 42 U.S.C. Secs 1983 and 2000e as well as Cal.
16 Gov't Code, Sec. 12900 et seq.
- 17 c. The religious exemption and testing provisions of the Ordinance
18 should be enjoined as set forth in the Court's Order until further
19 order of the court. There should be no adverse job action taken
20 against any City employee by virtue of a request for a religious
21

1 exemption from the vaccine until these provisions have been
2 rewritten and submitted to the court for review.

3 129. Though this claim is for declaratory relief, that is the remedy, its
4 nature is civil rights and therefore attorneys' fees are available to the prevailing
5 Plaintiff.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff requests judgment against Defendants, and each
8 of them, and prays for the following relief:

- 9 1. For costs of suit herein;
- 10 2. For reasonable attorney's fees as allowed by law;
- 11 3. For a temporary restraining order, a preliminary injunction, and a
12 permanent injunction;
- 13 4. for declaratory relief, and
- 14 5. For such other and further relief as the court deems just and proper.

15 Dated: March 15, 2022

**LAW OFFICES OF PELAYES & YU,
APC**

17 /s/ Tom Yu

18 _____
Tristan G. Pelayes, Esq.
Tom Yu, Esq.
Attorneys for Plaintiff,
19 ROLL CALL 4 FREEDOM, LLC
20
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