

1 Peter Gibbons (CBN: 196169)  
2 Suite E  
3 1805 North Carson Street  
4 Carson City, NV 89701-1216  
5 Telephone: 775-434-1856  
6 LawDr1@lawdr.us  
7 Attorney for Plaintiffs.

8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 Austin M. Higley, Kyle J. Clark, and  
11 Ryan D. Clark

12 Plaintiffs,

13 vs.  
14

15 CALIFORNIA STATE  
16 UNIVERSITY; Joseph Castro,  
17 Acting Chancellor of the  
18 CALIFORNIA STATE  
19 UNIVERSITY SYSTEM, in his  
20 official and personal capacities;  
21 Gayle E. Hutchinson, President of  
22 the CALIFORNIA STATE  
23 UNIVERSITY, Chico Campus, in  
24 her official and personal capacities;  
25 Xavier Becerra, Secretary of the U.S.  
26 DEPARTMENT OF HEALTH AND  
27 HUMAN SERVICES, in his official  
28 and personal capacities; Dr. Anthony  
Fauci, Director of the NATIONAL  
INSTITUTE OF ALLERGIES AND  
INFECTIOUS DISEASES, in his  
official and personal capacities; Dr.  
Janet Woodcock, Acting  
Commissioner of the U.S. FOOD  
AND DRUG ADMINISTRATION,

) **Case No: 2:21-at-583**

) **Complaint for Injunctive and  
Declaratory Relief**

) **Jury Trial Demanded**

1 in her official and personal )  
 2 capacities; U.S. DEPARTMENT OF )  
 3 HEALTH AND HUMAN )  
 4 SERVICES, FOOD AND DRUG )  
 5 ADMINISTRATION; CENTER )  
 6 FOR DISEASE CONTROL AND )  
 7 PREVENTION; NATIONAL )  
 8 INSTITUTES OF HEALTH; )  
 9 NATIONAL INSTITUTE OF )  
 10 ALLERGIES AND INFECTIOUS )  
 11 DISEASES; and John and Jane Does )  
 12 I-V, )  
 13 )  
 14 )  
 15 )  
 16 )  
 17 )  
 18 )  
 19 )  
 20 )  
 21 )  
 22 )  
 23 )  
 24 )  
 25 )  
 26 )  
 27 )  
 28 )  
 Defendants.

11 **PLAINTIFFS' COMPLAINT FOR INJUNCTIVE AND DECLARATORY**  
 12 **RELIEF**

13 Comes now Plaintiffs, by and through their undersigned counsel, who move the  
 14 Court for the issuance of an injunction to restrain the Federal Defendants<sup>1</sup>, their  
 15 officers, agents, servants, employees, and attorneys, to stop the approval of Covid-19  
 16 vaccinations until such time as procedures are established to require prescreening prior  
 17 to injection to establish whether the individual has had, or currently has, the Covid-19  
 18 virus; to restrain the State Defendants from mandating a person receive the vaccine  
 19 prior to the implementation of said procedures; and for declaratory relief on the issue  
 20 whether vaccination of those who have either had the virus, or currently have the virus,  
 21 are at risk of death or serious illness.

22 **JURISDICTION AND VENUE**

23 1. This Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1331  
 24 because this civil action arises under the Constitution and laws of the United States; 28

25 \_\_\_\_\_  
 26 1 Defendants CSU, Castro and Hutchinson are hereinafter collectively referred to as “the  
 27 State Defendants. The Federal officers, employees and Federal Agencies are hereinafter  
 28 collectively referred to as “the Federal Defendants.”

1 U.S.C. Sec 1361 because this civil action seeks to compel officers and employees of  
2 the United States to perform the duty of disapproving a vaccine that is potentially  
3 deadly and causes serious health issues; and 28 U.S.C. § 1343(a)(3) because this civil  
4 action is to secure equitable relief for violation of Plaintiffs' civil rights; and 5 U.S.C. §  
5 703 because no special statutory review is available and this civil action seeks both  
6 injunctive and declaratory relief; and 28 U.S.C. § 2201 because this civil action  
7 involves a dispute among the parties as to whether the Covid-19 vaccines are, or are  
8 not, potentially deadly and cause serious health issues; and 42 U.S.C. § 1983 because  
9 the State Defendants are violating Plaintiffs' civil rights.

10 2. Venue is properly set in this Court pursuant to 28 U.S.C. §1391(e)(1).

11 **PARTIES**

12 3. Plaintiff Austin Myles Higley ("*Higley*") is an individual resident in Grass  
13 Valley, California, and within the above-designated District Court.

14 4. Plaintiff Kyle J. Clark ("*Kyle Clark*") is an individual resident in Rocklin,  
15 California, and within the above-designated District Court.

16 5. Plaintiff Ryan D. Clark ("*Ryan Clark*") is an individual resident in Rocklin,  
17 California, and within the above-designated District Court.

18 6. Defendant California State University ("*CSU*") is a public university system in  
19 California with 23 campuses and eight off-campus centers enrolling 485,550 students  
20 with 55,909 faculty and staff.

21 7. Defendant Joseph Castro is the Acting Chancellor of the California State  
22 University System. He is being sued in his official and personal capacities.

23 8. Defendant Gayle E. Hutchinson holds the office of President within the CSU  
24 system. She is being sued in her official and personal capacities.

25 9. Defendant Xavier Becerra is the current Secretary of Defendant the U.S.  
26 Department of Health and Human Services. He is being sued in his official and  
27 personal capacities.

1 10. Defendant Dr. Anthony Fauci is the Director of Defendant the National Institute  
2 of Allergies and Infectious Diseases. He is being sued in his official and personal  
3 capacities.

4 11. Defendant Dr. Janet Woodcock is the Acting Commissioner of Defendant the  
5 Food and Drug Administration. She is being sued in her official and personal  
6 capacities.

7 12. Defendant United States Department of Health and Human Services (“*DHHS*”)  
8 is a federal agency.

9 13. Defendant Food and Drug Administration (“*FDA*”) is a federal sub-agency of  
10 Defendant DHHS.

11 14. Defendant Center for Disease Control and Prevention (“*CDC*”) is a federal sub-  
12 agency of Defendant DHHS.

13 15. Defendant National Institutes of Health (“*NIH*”) is a federal sub-agency of  
14 Defendant DHHS.

15 16. Defendant National Institute of Allergies and Infectious Diseases (“*NIAID*”) is a  
16 federal sub-agency of Defendant DHHS.

17 17. Defendants John and Jane Does I - V are as yet unknown agencies and  
18 individuals.

19 **FACTS COMMON TO EACH CAUSE OF ACTION**

20 18. Scientific medical research establishes that the Covid-19 vaccines currently  
21 authorized for emergency use (“*Emergency Use Authorization*” hereinafter “*EUA*”),  
22 when administered to those individuals that have had and recovered from the Covid-19  
23 virus, or who currently have the virus (*herein collectively referred to as “Covid-19*  
24 *Recovered*”), are at substantial risk of serious illness, including death, from the  
25 following non-inclusive medical conditions: Coagulopathy issues, including blood  
26 clots, hemorrhage, thrombocytopenia, heart attack, and strokes; Reproductive issues,  
27 including menstrual irregularities, reduced fertility, miscarriages, and preterm births;  
28 Transmission of spike protein (*or its fragments*) from vaccinated individuals, such as

1 through breast milk and associated risk in neonates and infants; Neurological disorders,  
2 including Guillain-Barré syndrome, acute disseminated encephalomyelitis, transverse  
3 myelitis, encephalitis, myelitis, encephalomyelitis, meningoencephalitis, meningitis,  
4 encephalopathy, demyelinating diseases, and multiple sclerosis, and dementia; Cardiac  
5 issues, including myocardial infarction, myocarditis and pericarditis, among others;  
6 Autoimmune diseases, including thyroiditis and diabetes mellitus, immune  
7 thrombocytopenia, autoimmune hepatitis, primary biliary cholangitis, systemic  
8 sclerosis, autoimmune disease for skeletal muscles (*myasthenia gravis, myositis such*  
9 *as polymyositis, dermatomyositis, or other inflammatory myopathies*).

10 19. The Federal Defendants continue to issue official recommendations, upon which  
11 the State Defendants have relied, that every person in the United States receive the  
12 Covid-19 vaccine which recommendations are falsely premised on their contention the  
13 Covid-19 vaccines are safe.

14 20. The Federal Defendants intend to authorize one or more of the current EUA  
15 vaccines for full licensure in the immediate future without any requirement for  
16 prescreening to determine if a potential recipient of the vaccine has had, or currently  
17 have, the virus.

18 21. Plaintiffs are, and at all times herein mentioned, students at Defendant CSU,  
19 Chico Campus.

20 22. Plaintiff Higley is a Covid-19 Recovered person having contracted the virus in  
21 early January, 2020.

22 23. Plaintiff Kyle Clark is a Covid-19 Recovered person having contracted the virus  
23 in late January, 2020.

24 24. Plaintiff Ryan Clark is a Covid-19 Recovered person having contracted the virus  
25 in mid January, 2020.

26 25. On April 22, 2021, the State Defendants, acting under color of state law, caused  
27 to be sent to Plaintiffs an e-mail stating the official policy of CSU to mandate, after  
28 official licensure of any of the vaccines, that students, faculty and staff must be

1 vaccinated or they will be precluded from the campus for the fall semester. A copy of  
2 said e-mail is attached hereto as Exhibit 1.

3 **FIRST CAUSE OF ACTION AGAINST THE STATE DEFENDANTS**

4 **Injunctive Relief Under 42 U.S.C. § 1983**

5 26. Plaintiffs incorporate by reference paragraphs 1-25 herein above as if set forth in  
6 full.

7 27. Once the EUA vaccine is approved for general use, Plaintiffs will lose their right  
8 to choose their own health care unless the State Defendants' mandate is enjoined.

9 28. Cal. Const. art I, § 28(7), providing that all students have the right to be safe and  
10 secure in their persons will be violated when Plaintiffs are forced to obtain a  
11 vaccination that is inherently dangerous and life threatening.

12 29. So too, a person's right to personal security is a "historic liberty interest  
13 protected substantively by the Due Process Clause of the 14th Amendment.

14 30. The right to bodily autonomy and to choose one's healthcare falls within a  
15 "historic liberty interest."

16 31. Unless the State Defendants are enjoined, Plaintiffs will be irreparably harmed,  
17 which harm includes, not by way of limitation, death, or other serious illness, and loss  
18 of fundamental State and Federal constitutionally protected rights.

19 **SECOND CAUSE OF ACTION AGAINST FEDERAL DEFENDANTS**

20 **Injunctive Relief Under 5 U.S.C. § 703**

21 32. Plaintiffs incorporate by reference paragraphs 1-25 herein above as if set forth in  
22 full.

23 33. Federal Defendants, and each of them, have an absolute duty under the  
24 Constitution of the United States to protect the life, liberty, and property of the citizens  
25 as an integral part of the fundamental purpose for establishment of the federal  
26 government. See the Declaration of Independence ¶ 2 "That to secure these rights,  
27 Governments are instituted among men, ..."  
28

1 34. Federal Defendants, and each of them, being completely in control of the full  
2 licensure of the Covid-19 vaccines, have a mandatory duty under the due process  
3 clause to notify potential recipients of the vaccines of the serious health effects,  
4 including death, if they are a Covid-19 Recovered person.

5 35. Unless the Federal Defendants are enjoined from issuing full licensure without a  
6 mandatory requirement to prescreen individuals to ascertain whether one is a Covid-19  
7 Recovered person, and a mandate to exclude those persons from vaccinations,  
8 Plaintiffs will be irreparably harmed, which harm includes, not by way of limitation,  
9 death, or other serious illness, and loss of fundamental State and Federal constitutional  
10 rights.

11 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

12 **Declaratory Relief Under 28 U.S.C. § 2201**

13 36. Plaintiffs incorporates by reference paragraphs 1-29 herein above as if set forth  
14 in full.

15 37. There is an actual controversy between Defendants and Plaintiffs regarding the  
16 safety of the lives and health of people who have in the past, or who currently are  
17 infected, with the Covid-19 virus.

18 38. Defendants have asserted in published documents that there is no need to screen  
19 individuals before receiving the various vaccines as the vaccine is safe for  
20 administration to such people, despite the lack of any testing of said individuals as part  
21 of the various trials regarding the various vaccines.

22 39. Plaintiffs contends scientific medical evidence exists showing vaccination of  
23 individuals who have had the virus and have recovered, or who currently have the  
24 virus, will result in serious health issues, including death to those individuals and that  
25 due process considerations require mandating prescreening.

26 WHEREFORE, Plaintiffs moves the Court for:

27 1. An injunction against the State Defendants from mandating vaccinations  
28 as a condition precedent from attending any class at a CSU campus;

1           2. An injunction against the Federal Defendants from issuing final licensure  
2 of a Covid-19 vaccine in the absence of mandating prescreening as a condition  
3 precedent to administering a Covid-19 vaccine to any person, and directing that Covid-  
4 19 Recovered persons are exempt from vaccination, mandatory or otherwise.

5           3. For an Order awarding Plaintiffs cost of suit herein;

6           4. For an award of attorneys' fees; and

7           5. For such other and further relief as the Court deems proper.

8           Dated this, June 24, 2021

9  
10  
11  
12             
13           \_\_\_\_\_  
14           Peter Gibbons  
15           Attorney for Plaintiffs