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18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 Jonah Gold,

21 *Plaintiff,*

22 v.

23 BRIAN SANDOVAL, in his official capacity as  
24 PRESIDENT OF THE UNIVERSITY OF  
25 NEVADA, RENO; MELODY ROSE, in her  
26 official capacity as Chancellor of BOARD OF  
27 REGENTS OF THE NEVADA SYSTEM OF  
28 HIGHER EDUCATION, a political subdivision  
of the State of Nevada; LISA SHERYCH, in her  
official capacity as Administrator of  
DEPARTMENT OF HEALTH AN HUMAN  
SERVICES NEVADA DIVISION OF PUBLIC  
AND BEHAVIORAL HEALTH; STEVE  
SISOLAK, in his official capacity as  
GOVERNOR OF THE STATE OF NEVADA;  
and John and Jane Does 1-100,

*Defendants.*

**Case Number**  
**3:21-cv-00480-RCJ-CLB**

**EMERGENCY MOTION**  
**Plaintiff's Request for Temporary**  
**Restraining Order With Order to**  
**Show Cause Why A Preliminary**  
**Injunction Should Not Issue**

**Judge: Robert C. Jones**  
**Trial Date: None Set**

**Emergency Relief Requested by**  
**November 30, 2021**

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22 13, 2021)..... 9

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28

1                   **EMERGENCY REQUEST FOR TEMPORARY RESTRAINING ORDER**

2                   Plaintiff Jonah Gold hereby applies to the Court pursuant to Federal Rule of Civil Procedure  
3 65 and Local Rule 7-4 for a Temporary Restraining Order enjoining Defendants from enforcing  
4 their emergency vaccine mandate that unnecessarily rushes Covid-19 vaccination upon already  
5 immune students. If not preliminarily enjoined, Defendants will irreversibly place Plaintiff and  
6 other naturally immune students at risk of *imminent* physical injury and death. Plaintiff requests the  
7 Temporary Restraining Order issue with an Order to Show Cause Why a Preliminary Injunction  
8 Should Not Issue.

9                   As described in the concurrently filed declaration of Plaintiff’s counsel, all Defendants’  
10 counsel have received service of the Complaint and this TRO application. Plaintiff’s counsel has  
11 accommodated the schedules of Defendants’ counsel and provided sufficient time for all  
12 Defendants to file any written opposition to this application prior to 11/30/21.

13                   This application is made on the grounds set forth herein, via Memorandum in Support;  
14 together with declarations and exhibits in support; all pleadings and papers filed in this action; the  
15 argument of counsel; and further evidence as the Court may consider at or before a hearing.

16                   **URGENCY JUSTIFYING RELIEF BY NOVEMBER 30, 2021**

17                   Defendants are state actors preventing a naturally immune student (Plaintiff Jonah Gold)  
18 from following his doctor’s advice to decline a Covid-19 vaccine. Scientifically, the vaccine can  
19 provide Jonah no benefit, and also cannot benefit the community. The only thing the vaccine can  
20 do, statistically, is harm Jonah. Jonah is currently suffering daily harm from UNR’s ‘separate but  
21 equal’ campus policies against unvaccinated students. Only a TRO can address the tight timelines  
22 here -- with an enrollment deadline looming imminently for compliance, Jonah challenges Nevada’s  
23 overbroad vaccine mandate for college students as unscientific applied to everyone, and nonsensical  
24 applied to Plaintiff personally. Unless this Court issues immediate relief, Jonah faces an  
25 unconstitutional choice within days: (a) quickly inject himself unnecessarily with a Covid-19  
26 vaccine that his doctor does not recommend, or else (b) forfeit his college livelihood instantly. A  
27  
28

1 temporary restraining order is the only remedy that can preserve the status quo for Jonah and his  
2 classmates.

3 As confirmed in the Plaintiff's declaration, this lawsuit was commenced at the *first* available  
4 opportunity -- enrollment began November 1, this lawsuit was filed 9 days later with 14 top expert  
5 declarations. The case cites the most current science and government statements, including key  
6 findings discovered *after* Defendants announced their overbroad vaccine mandate. Moreover, a  
7 preliminary injunction motion would only be heard 28-days after filing, which at the earliest is mid-  
8 December and therefore provides inadequate time for students to comply with UNR's requirement  
9 that students receive 2-doses before several essential deadlines on the Spring 2022 academic  
10 calendar, including for example the first day of classes on January 18. Even if a student was able to  
11 rush the required two Covid-19 vaccines with a handful of days or maybe only hours to spare before  
12 classes begin, the available classes would be extremely limited and even futile to academic  
13 requirements. Taken all together, this means that students are being put under duress with a  
14 complete inability to plan for housing, pay bills, etc. If a TRO is not issued, countless students who  
15 cannot benefit from the vaccine would take it out of raw fear (without doctor approval and without  
16 informed consent) rather than because of rational medical science. A vaccination cannot be reversed  
17 and a vaccine injury (and loss of natural immunity) causes irreparable harm.

### 18 INTRODUCTION

19 New undisputed information about Covid-19 has come to light nationwide, and it must be  
20 addressed squarely here in federal court because the new information expressly *contradicts*  
21 Nevada's overbroad vaccine mandate upon every college student.

22 We begin with two facts that are certain:

- 23 (1) The entire worldwide scientific consensus is now that Covid-19 vaccination does not  
24 prevent infection or transmission of the coronavirus. Every serious person admits this  
25 openly today, including all US Health Agencies, which is why the CDC Director stated  
26  
27  
28

1 on CNN, “what the vaccines can’t do anymore is prevent transmission.”<sup>1</sup>

2 (2) The Plaintiff in this case (“Jonah”) has proven natural immunity to Covid-19; he is an  
3 18-year old healthy unvaccinated college student (hence a >99.997% chance of survival)  
4 that poses no danger to himself or others.<sup>2</sup>

5 According to experts and his own doctor, it is statistically impossible for Covid-19  
6 vaccination to benefit this young man or benefit public health; but there is a statistical likelihood  
7 that Covid-19 vaccination will harm him.<sup>3</sup> Due to Nevada’s outrageously overbroad vaccine  
8 mandate, Jonah does not qualify for a medical exemption under the rigid ACIP *recommendations*  
9 that are *required* [sic] by Defendants’ overbroad mandate.<sup>4</sup> So Jonah is now unforgivingly required  
10 to be vaccinated to (a) meet his academic standards in college, (b) congregate in the dorm where he  
11 lives, and (c) exist normally as a healthy and wholesome college student here in the land of the free  
12 and the home of the brave.<sup>5</sup>

13  
14  
15 <sup>1</sup> See Complaint ¶¶1-2 citing health authorities, and see CNN (August 5, 2021). *The Situation*  
16 *Room, interview with CDC Director Walensky.*  
<https://twitter.com/CNNSitRoom/status/1423422301882748929>.

17 <sup>2</sup> See Jonah Gold declaration in support of Temporary Restraining Order, with attached  
supportive letter from Jonah’s doctor.

18 <sup>3</sup> See Plaintiff’s top medical expert declarations in support of Temporary Restraining Order.

19 <sup>4</sup> It is undisputed that ACIP makes non-binding recommendations only, yet Defendants have  
‘required’ those recommendations be followed. See DPBH (September 2021). *University – Medical*  
*Immunization Exemption Certificate*. Nevada State Immunization Program.

20 [https://www.unr.edu/main/pdfs/verified-accessible/divisions-offices/student-services/admissions-](https://www.unr.edu/main/pdfs/verified-accessible/divisions-offices/student-services/admissions-records/university-medical-immunization-exemption.pdf)  
21 [records/university-medical-immunization-exemption.pdf](https://www.unr.edu/main/pdfs/verified-accessible/divisions-offices/student-services/admissions-records/university-medical-immunization-exemption.pdf). CDC (November 3, 2021). *Interim*  
22 *Clinical Considerations for Use of COVID-19 Vaccines Currently Approved or Authorized in the*  
*United States, Contraindications and precautions*. Covid-19 Vaccination.  
23 [https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-](https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fvaccines%2F%2Fvaccines%2F%2Fclinical-considerations.html#Contraindications)  
[us.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fvaccines%2F%2Fvaccines%2F%2Fclinical-considerations.html#Contraindications](https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fvaccines%2F%2Fvaccines%2F%2Fclinical-considerations.html#Contraindications).

24 <sup>5</sup> As described in detail herein, with the support of State Attorney Generals, Federal courts  
25 have overturned many draconian Covid-19 regulations. See e.g., *Magliulo v. Edward Via Coll. of*  
26 *Osteopathic Med.*, No. 3:21-CV-2304, 2021 U.S. Dist. LEXIS 159265, at \*18 (W.D. La. Aug. 17,  
2021) (granting college students a temporary restraining order against college’s enforcement of a  
Covid-19 vaccine mandate with mandatory masking and testing of the unvaccinated), “In addition  
27 to showing constitutional harm, Plaintiffs have shown irreparable harm because of their inability to  
complete curriculum requirements, disclosure of their ‘unvaccinated’ status, and excessive  
28 restrictions.”

1           Thus, we come to an uncomfortable realization, which we hereby place squarely before this  
 2 Court: mandatory Covid-19 vaccination would be a senseless public health *sacrifice* of Plaintiff  
 3 Jonah Gold. See expert declarations in support of this motion, such as top bioethics professor Julie  
 4 Ponesse, PhD (“What sacrifices is it acceptable to ask of individuals in order to achieve public  
 5 health?”) and senior advisor with the primary health agency of the US government, professor Paul  
 6 E. Alexander, PhD (“These factors need to be given strong clinical consideration when weighed  
 7 against the risks and/or real ‘sacrifices’ associated with receiving any of the current COVID-19  
 8 vaccines.”) Defendants do not possess clear and unquestionable authority of law to force Jonah to  
 9 engage in a harmful medical procedure.

10           This case is important. 14 top doctors and scientists have already filed supportive  
 11 declarations for Jonah (such as Yale epidemiology professor Harvey Risch, MD, PhD who  
 12 rigorously explains how several scientific statements are blatantly wrong on the website that  
 13 Defendants direct the public for information), and many more top doctors will also join the  
 14 procession of experts here if needed to ensure Jonah’s good health prevails over unbridled state  
 15 power to broadly mandate biotech in every arm.

### FACTUAL BACKGROUND

17           On August 20, 2021, Defendants Department of Public Health (DPBH) and Governor Steve  
 18 Sisolak (Sisolak) adopted “an emergency regulation amending the Nevada Administrative Code  
 19 (NAC) 441A.755 to require individuals enrolling in any Nevada university, community college, or  
 20 state college, beginning November 1, 2021, to provide proof of a completed COVID-19 vaccination  
 21 series to the educational institution.”<sup>6</sup>

24 <sup>6</sup>           DPBH (August 20, 2021). *Emergency Regulation Concerning Nevada System of Higher*  
 25 *Education (NSHE) student immunization requirements for COVID-19.*  
 26 [https://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2021\\_docs/2021-08-20\\_BOH\\_Regulation.pdf](https://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2021_docs/2021-08-20_BOH_Regulation.pdf).

27           Delaney, M (August 20, 2021). *Governor Sisolak signs emergency regulation related to*  
 28 *COVID-19 vaccine.* Press Release.  
[https://gov.nv.gov/News/Press/2021/Governor\\_Sisolak\\_signs\\_emergency\\_regulation\\_related\\_to\\_COVID-19\\_vaccine/](https://gov.nv.gov/News/Press/2021/Governor_Sisolak_signs_emergency_regulation_related_to_COVID-19_vaccine/).



1 Defendants University of Nevada Reno (UNR) and Nevada System of Higher Education  
2 (NSHE) concurrently released their Covid-19 vaccine mandate policies across the State; the most  
3 relevant to this case being:<sup>7</sup>

4 **“All undergraduate and graduate students are required to provide**  
5 **documentation of a completed vaccination series against COVID-19 before**  
6 **enrolling for the Spring 2022 semester.** This means students must receive both  
7 doses of the Pfizer-BioNTech or Moderna vaccine, or the single dose of Johnson &  
8 Johnson (Janssen) COVID-19 vaccine before they can enroll when enrollment  
9 times begin on November 1.”

10 ...

11 **“Students, employees, and members of the public, who have not been fully**  
12 **vaccinated against COVID-19, are also still required to wear face coverings**  
13 **outdoors while on campus,** irrespective of whether other individuals are present.”

14 ...

15 **“Contact tracing for positive COVID-19 cases will continue...”**

16 ...

17 **“What if I’ve had COVID-19 and carry antibodies? Do I still have to get**  
18 **vaccinated? Yes, according to the Centers for Disease Control and Prevention, a**  
19 **person should be vaccinated regardless of whether they have already had COVID-**  
20 **19 because of the following:**

- 21 • “Research has not yet shown how long you are protected from getting  
22 COVID-19 again after you recover from COVID-19
- 23 • “Vaccination helps protect you even if you’ve already had COVID-19”

24 ...

25 **“If all courses are offered 100% web-based, the student may still enroll into those**  
26 **classes. Students enrolled into 100% web-based courses who have not provided**  
27 **immunization documentation will need to complete enrollment requests for manual**  
28 **enrollment into each class.”**

See also specific to dormitories:<sup>8</sup>

**“For a guest to check-in, they must present an ID at the Front Desk or to the**  
**Residential Life Staff Member. If the front desk is closed, the resident must call the**  
**Resident Assistant on Duty to check-in their guest. Guests must follow all**  
**established health guidelines as suggested by the University, CDC, Washoe County**

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24 <sup>7</sup> UNR (November 2021). *Protect the Pack. Coronavirus.* <https://www.unr.edu/coronavirus>.

25 Defendant NSHE also regularly publishes the Covid-19 policies enforced throughout its  
26 college system including UNR. See e.g., NSHE (November 2021). *COVID-19 Information Center.*  
27 <https://nshe.nevada.edu/covid-19-information-center/> (declaring mandates for vaccines, testing, and  
28 masking).

<sup>8</sup> UNR (November 2021). *Community Standards and Conduct Process.* Residential Life,  
Housing & Food Service. <https://www.unr.edu/housing/resources/student-handbook/residence-hall-standards-of-conduct>.

1 Public Health Department, NSHE, and the State of Nevada. This includes, but is not  
2 limited to, proof of COVID-19 vaccination or proof of a negative COVID-19 test  
3 result, administered within 72 hours prior to entering the building. The test results  
4 must include the date administered and identifiable information.”

5 As described in Plaintiff’s concurrently filed declaration, Plaintiff is enrolled as an  
6 undergraduate student at University of Nevada, Reno. He lives in a campus dormitory. Jonah is a  
7 Covid-19 Recovered person, having contracted the coronavirus and speedily recovered without  
8 complications. Jonah declines Covid-19 testing as an intrusive bodily intrusion, one that would  
9 subject Jonah to the unreasonable risk of a false positive with resulting draconian contact tracing  
10 and isolation. Thus, as a consequence of exercising rational thought and legal rights, Jonah is  
11 currently being prohibited by UNR from normal physical interaction with other students. Jonah has  
12 already paid for the Spring 2022 semester (including room and board). Jonah has been unable to  
13 register for needed in person classes since November 1, 2021, so his education and livelihood are  
14 being hindered, including for example as in-person classes are expected to be full by December  
15 2021, whilst online only classes are limited and segregationist. Because of Defendants’ vaccine  
16 mandate, Jonah has not been able to enroll in each class recommended to him by UNR’s academic  
17 advisor.

### 18 **LEGAL ARGUMENT**

19 For zero medical benefit, Defendants are trying to irreversibly place naturally immune Jonah  
20 Gold at risk of imminent physical injury and death, without his doctor’s ability to protect him.  
21 Injunctive relief is necessary.

#### 22 **A. Legal Standard for Temporary Restraining Order**

23 To obtain a temporary restraining order, Plaintiff must show he is likely to succeed on the  
24 merits, he will suffer irreparable harm absent injunctive relief, the balance of equities tips in his  
25 favor, and the public interest favors injunctive relief. *Pom Wonderful LLC v. Hubbard*, 775 F.3d  
26 1118, 1124 (9th Cir. 2014) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).  
27 Here, all four conditions are met and support the TRO requested.

#### 28 **B. Jonah Is Likely To Succeed on the Merits.**

**1 1. Essential Legal Context: It Is Indisputable That Jonah Has The Right of  
2 Informed Refusal.**

3 It is settled law that Jonah is entitled to informed refusal of Covid-19 vaccination -- the FDA  
4 confirms it in writing,<sup>9</sup> the Defendants acknowledge it in writing,<sup>10</sup> and the law has respected it for  
5 centuries, including for example:

6 “It cannot be disputed that the Due Process Clause protects an interest in life as well as an  
7 interest in refusing [] medical treatment.” *Cruzan v Director, Missouri Dept of Health*, 497 US 261,  
8 279 (1990). In *Washington v. Harper*, 494 U.S. 210, 221-22, the Supreme Court stated “The  
9 forcible injection of medication into a nonconsenting person's body represents a substantial  
10 interference with that person's liberty. Cf. *Winston v. Lee*, 470 U.S. 75 (1985); *Schmerber v.*  
11 *California*, 384 U.S. 757, 772 (1966).” See also *Coons v. Lew*, 762 F.3d 891, 899 (9th Cir. 2014)  
12 (“rights to determine one’s own medical treatment, and to refuse unwanted medical treatment,” are  
13 “fundamental[,]” and individuals also have “a fundamental liberty interest in medical autonomy.”)

14 All respectable doctors agree that placing patients under duress is a discredited and unlawful  
15 tool of coercion. See Dr. Ponesse Decl. ¶I.4 (“Autonomy and coercion”).

16 In granting preliminary relief that halted President Biden’s vaccine mandate through OSHA,  
17 the 5<sup>th</sup> Circuit appellate court recently found that overbreadth is fatal to a vaccine mandate:<sup>11</sup>

18 “[T]he Mandate is a one-size-fits-all sledgehammer that makes hardly any attempt to  
19 account for differences in workplaces (and workers)... The Mandate is staggeringly  
20 overbroad... the Mandate fails to consider what is perhaps the most salient fact of  
21 all: the ongoing threat of COVID-19 is more dangerous to some employees than to  
22 other employees... a naturally immune unvaccinated worker is presumably at less  
23 risk than an unvaccinated worker who has never had the virus. The list goes on, but  
24 one constant remains – the Mandate fails almost completely to address, or even  
25 respond to, much of this reality and common sense.... It is clear that a denial of the  
26 petitioners’ proposed stay would do them irreparable harm. For one, the Mandate  
27 threatens to substantially burden the liberty interests [footnote omitted] of reluctant  
28 individual recipients put to a choice between their job(s) and their job(s). For the  
individual petitioners, the loss of constitutional freedoms ‘for even minimal periods  
of time... unquestionably constitutes irreparable injury.’ [citations omitted].... For  
similar reasons, a stay is firmly in the public interest. From economic uncertainty to

<sup>9</sup> For FDA admissions, see discussion below in section B.4 re Emergency Use Authorization.

<sup>10</sup> For Defendants admissions, see footnote 7.

<sup>11</sup> *BST Holdings, L.L.C. v. OSHA*, No. 21-60845, 2021 U.S. App. LEXIS 33698 (5th Cir. Nov. 12, 2021).

1 workplace strife, the mere specter of the Mandate has contributed to untold economic  
 2 upheaval in recent months. Of course, the principles at stake when it comes to the  
 3 Mandate are not reducible to dollars and cents. The public interest is also served by  
 4 maintaining our constitutional structure and maintaining the liberty of individuals to  
 make intensely personal decisions according to their own convictions – even, or  
 perhaps particularly, when those decisions frustrate government officials.”

5 This is in line with similarly strong court filings against Covid-19 vaccine mandates from  
 6 the Attorney Generals for Texas, Arizona, and Oklahoma:

7 • Texas Attorney General, “Even one American being forced by their  
 8 government to receive a vaccine that they do not want out of fear of losing their job  
 9 is an irreparable injury and a stain on Defendants’ records.” Complaint in *Texas v.*  
*Biden*, No. 3:21-cv-309. Dkt 1. (US District Court for the Southern District of Texas,  
 10 10/29/21).

11 [https://www.texasattorneygeneral.gov/sites/default/files/global/images/20211029\\_TX%20v%20Biden%20et%20al%20\(file%20marked\).pdf](https://www.texasattorneygeneral.gov/sites/default/files/global/images/20211029_TX%20v%20Biden%20et%20al%20(file%20marked).pdf).

12 • Arizona Attorney General, “The federal employee mandate violates  
 13 employees’ constitutional right to bodily integrity and to refuse medical  
 14 procedures.... While *Buck v. Bell* has never been overruled, its inapplicability today  
 15 is not seriously disputed. The same result should obtain for *Jacobson*.” *Arizona v.*  
*Biden*, No. 2:21-cv-01568-MTL, Dkt. 34 (US District Court for the District of  
 Arizona, 10/22/21).

16 [https://www.azag.gov/sites/default/files/docs/press-](https://www.azag.gov/sites/default/files/docs/press-releases/2021/motions/034%20Renewed%20Motion%20for%20TRO%20and%20PI.PDF)  
 17 [releases/2021/motions/034%20Renewed%20Motion%20for%20TRO%20and%20PI.](https://www.azag.gov/sites/default/files/docs/press-releases/2021/motions/034%20Renewed%20Motion%20for%20TRO%20and%20PI.PDF)  
 PDF.

18 • Oklahoma Attorney General, “Here are some related and non-exhaustive  
 19 considerations that compel the conclusion that this [vaccine] mandate is arbitrary and  
 20 capricious:... Defendants’ failure to exempt those who have a natural immunity to  
 21 COVID-19.... Being vaccinated does not stop anyone from being a carrier of  
 22 COVID-19.... This mandate forcibly intrudes into the physical person of the federal  
 23 contractor’s employee; it penetrates not just into the individual’s skin but into her  
 24 bloodstream—and becomes a component of her body. See *Skinner*, 489 U.S. at 616;  
*Schmerber*, 384 U.S. at 767–68. This involves the person’s privacy, bodily integrity,  
 and dignity. Society certainly recognizes the right to avoid such a compelled  
 intrusion as reasonable.” *Oklahoma v. Biden*, No. 5:21-cv-01069-G (US District  
 Court for the Western District of Oklahoma, 11/4/21).

25 [https://www.oag.ok.gov/sites/g/files/gmc766/f/okla.\\_v.\\_biden\\_compl.pdf](https://www.oag.ok.gov/sites/g/files/gmc766/f/okla._v._biden_compl.pdf).

26 The Attorney General for the State of Arizona is also requesting strict scrutiny in his  
 27 pending litigation challenging President Biden’s Covid-19 vaccine mandate for federal employees  
 28 and contractors. See *Arizona v. Biden*. No. 2:21-cv-01568-MTL (United States District Court,  
 District of Arizona), Dkt. 34 (Request for TRO), pages 36-38.

1           These Attorney Generals are on solid ground, because key legal precedents in federal court  
2 have applied strict scrutiny to Covid-19 vaccine mandates, such as:

- 3           **a.** *Magliulo v. Edward Via Coll. of Osteopathic Med.*, No. 3:21-CV-2304, 2021  
4 U.S. Dist. LEXIS 159265, at \*18 (W.D. La. Aug. 17, 2021) (agreeing with  
5 State attorney general and granting TRO for student challenging college  
6 vaccine mandate because “VCOM can likely show a compelling state interest  
7 (safety of students, employees, and patients), but is unlikely to meet the  
8 second prong, that it used the least restrictive means of compelling that  
9 interest.”)
- 10           **b.** *Dahl v. Bd. of Trs. of W. Mich. Univ.*, No. 1:21-cv-757, 2021 U.S. Dist.  
11 LEXIS 167041, at \*5 (W.D. Mich. Aug. 31, 2021) (granting TRO for student  
12 challenging college vaccine mandate because “Plaintiffs have established a  
13 likelihood of success on the merits of the Free Exercise Claims. Plaintiffs  
14 have established that WMU's vaccination requirement is subject to strict  
15 scrutiny.”)

16           Many state courts are also applying strict scrutiny to grant TROs. See e.g., *Michalski et al. v.*  
17 *St. John Fisher College, et al.* (State of New York, Supreme Court: County of Onondaga, Index No.  
18 8063/2021). Emergency Order to Show Cause With Temporary Restraining Order, dated September  
19 21, 2021 (granting TRO and Burden Shifting for students asserting strict scrutiny in challenge to  
20 college vaccine mandate); *Friend et al. v. City of Gainesville* (State of Florida, Circuit Court:  
21 Alachua County, Case No. 01-2021-CA-2412). Order Granting Plaintiffs’ Petition for Temporary  
22 Injunction, dated September 22, 2021 (applying strict scrutiny to grant TRO for city employees  
23 challenging city’s vaccine mandate).<sup>12</sup>

24           Granted, there are some courts that have found Covid-19 vaccine mandates are subject to  
25 more lenient scrutiny (including a handful of college vaccine mandates), but every single one of  
26 those courts has done so on the old (and mistaken) assumption that Covid-19 vaccines prevent the  
27 spread of Covid-19. See e.g., *Valdez v. Grisham*, No. 21-cv-783 MV/JHR, 2021 U.S. Dist. LEXIS  
28 173680, at \*6 (D.N.M. Sep. 13, 2021) (“the refusal to receive the COVID-19 vaccine not only

<sup>12</sup>           Indeed, the precedents for applying strict scrutiny predate Covid-19. See e.g., *Kanuszewski*  
*v. Mich. HHS*, 927 F.3d 396, 420 (6th Cir. 2019), where the appellate court found the fundamental  
right of informed consent so robust that the appellate court reversed the District Court re informed  
consent in blood collection. The 6<sup>th</sup> Circuit confirmed once again that violation of the  
“fundamental right to direct [] medical care...[triggers] strict scrutiny.” See also, *United States v.*  
*Brandon*, 158 F.3d 947 (6th Cir. 1998).

1 endangers the individual but the entire community, and further jeopardizes the progress the State  
 2 has made against the pandemic by allowing the virus to transmit more freely and mutate into more  
 3 transmissible or deadly variants."); *Klaassen v. Trs. of Ind. Univ.*, No. 21-2326, 2021 U.S. App.  
 4 LEXIS 22785, at \*3-4 (7th Cir. Aug. 2, 2021) ("Vaccination protects not only the vaccinated  
 5 persons but also those who come in contact with them, and at a university close contact is  
 6 inevitable."). Plaintiff's experts, together with new admissions by public health officials,  
 7 definitively rebut such assumptions in the instant case.

8 **2. Vital Context To Understand Jonah's Case: Covid-19 Vaccines Do Not Prevent**  
 9 **Infection Or Transmission of Coronavirus.**

10 It is a worldwide scientific consensus point that Covid-19 vaccination does not prevent  
 11 infection or transmission of the coronavirus.<sup>13</sup>

12 Therefore, as a matter of law, Covid-19 vaccination cannot be considered a public health  
 13 measure, lest public health be redefined to support an unprecedented power grab. Dr. Ponesse Decl.  
 14 ¶I.5(iii) and I.6; Dr. Zelenko Decl. ¶12; Dr. Parks Decl. ¶26.

15 The fact that the CDC literally changed the definition of the word "vaccine" in August 2021  
 16 to attempt to include these injections under a "vaccination" branding, certainly to manipulate public  
 17 sentiment, and likely to also avoid the proper standard of judicial review, does not permit the  
 18 judiciary to defer to the State with anything less than strict scrutiny. Indeed, the *Jacobson* Court  
 19 limited its holding to vaccine mandates that were "adapted to prevent the spread of contagious  
 20 diseases[.]" *Jacobson v. Massachusetts*, 197 U.S. 11, 35 (1905).<sup>14</sup>

21  
 22  
 23  
 24 <sup>13</sup> See Plaintiff's expert declarations in support of this application; and footnote 1 above.

25 <sup>14</sup> Courts have often adopted deferential standards of review when it comes to vaccine  
 26 mandates, reasoning that such mandates are sometimes necessary to protect not just the recipient but  
 27 the public at large. However, as the CDC has acknowledged, and as Plaintiff's experts further  
 28 explain, Covid-19 vaccines are not actually vaccines at all, but rather treatments. While they might  
 lessen recipients' chances of developing serious symptoms of Covid-19, they do not prevent  
 recipients from either contracting Covid-19 or spreading Covid-19 to others. In such circumstances,  
 overriding the preferences of a non-consenting individual is much harder to justify, making the  
 application of any standard of review other than strict scrutiny inappropriate.

1 Because all credible scientific experts and sources have found that these injections do not in  
2 fact prevent the transmission or acquisition of the coronavirus, the injections are a personal health  
3 measure only.<sup>15</sup>

4 **3. Additional Context That Cautions Against Applying *Jacobson* to Jonah: Covid-19 Vaccines Harm Public Health, and Would Harm Jonah.**

6 Plaintiff's experts confirm an enormous amount of independent data proves that Covid-19  
7 vaccination is actively harming the public health generally, and some individuals specifically. All of  
8 this data is published and the American people are increasingly taking notice that previous promises  
9 made by health officials about vaccination look quite different under scrutiny. For example, these  
10 are among the new facts that doctors are learning and now publishing:

- 11 • The vaccinated carry a very high viral load.<sup>16</sup> Vaccinated people are more likely to  
12 spread coronavirus.<sup>17</sup> The vaccinated acquire and transmit the virus as readily – or more  
13 readily – than the unvaccinated.<sup>18</sup>

15 \_\_\_\_\_  
16 <sup>15</sup> Dr. Parks Decl. ¶53; Dr. Urso Decl. ¶¶29-30.  
17 Moderna (November 2021). *Program Patents*. <https://www.modernatx.com/patents>.  
18 United States Securities and Exchange Commission (August 6, 2020). *Moderna Form 10Q*.  
19 <https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm>.  
20 Nakagami H. (September 2021). *Development of COVID-19 vaccines utilizing gene therapy*  
21 *technology*. Int Immunol. 2021 Sep 25;33(10):521-527.  
22 <https://pubmed.ncbi.nlm.nih.gov/33772572/>.

23 FDA (October 2021). *Comirnaty*. Vaccines, Blood, and Biologics.  
24 <https://www.fda.gov/vaccines-blood-biologics/comirnaty>.

25 <sup>16</sup> See Dr. Tyson Decl. ¶16; Dr. Kammerer Decl. throughout; Dr. Parks Decl. ¶43; Dr.  
26 McCullough Decl. ¶16.

27 Chau, N.V.V., et al. (October 11, 2021). *Transmission of SARS-CoV-2 Delta Variant Among*  
28 *Vaccinated Healthcare Workers, Vietnam*, Preprints with The Lancet.  
29 <https://ssrn.com/abstract=3897733>.

30 <sup>17</sup> Dr. Parks Decl. ¶¶16, 43-44, 47-49; Dr. McCullough Decl. ¶15, 16, 22, 35, 41, 64. See e.g.,  
31 Delaney, P (October 6, 2021). *Brief video illustrates dramatic spikes in COVID-19 deaths after jabs*  
32 *in 40 nations*. LifeSite News. [https://www.lifesitenews.com/news/brief-video-illustrates-dramatic-](https://www.lifesitenews.com/news/brief-video-illustrates-dramatic-spikes-in-covid-19-deaths-following-jabs-in-40-nations/)  
33 [spikes-in-covid-19-deaths-following-jabs-in-40-nations/](https://www.lifesitenews.com/news/brief-video-illustrates-dramatic-spikes-in-covid-19-deaths-following-jabs-in-40-nations/).

34 The Expose (November 2, 2021). *Pandemic of the Vaccinated – Worldwide data on 188*  
35 *countries proves the highest Covid-19 case rates are in the most vaccinated countries*.  
36 [https://theexpose.uk/2021/11/02/worldwide-data-proves-the-highest-covid-19-case-rates-are-in-the-](https://theexpose.uk/2021/11/02/worldwide-data-proves-the-highest-covid-19-case-rates-are-in-the-most-vaccinated-countries/)  
37 [most-vaccinated-countries/](https://theexpose.uk/2021/11/02/worldwide-data-proves-the-highest-covid-19-case-rates-are-in-the-most-vaccinated-countries/).

38 <sup>18</sup> Dr. McCullough Decl. ¶35.

- 1 • Vaccinated people had extremely brief and transient immunity for only a handful of
- 2 months from the original variant. According to the CDC Director, they have no
- 3 protection whatsoever from acquiring the only variant of concern, the Delta variant.<sup>19</sup>
- 4 • There is much data to show that vaccinated people are more likely to expose the
- 5 community to variants.<sup>20</sup> And vaccinated people become dependent on vaccine boosters
- 6 for life.<sup>21</sup>
- 7 • Unvaccinated Covid-19 Recovered persons acquire lifelong natural immunity that is the
- 8 most robust, most complete, and most durable.<sup>22</sup>
- 9 • It is counterproductive and risky to vaccinate people who are Covid-19 Recovered
- 10 because they are placed at greater risk of harm in the short term and in the long term.<sup>23</sup>
- 11 • National data from the United States government databases (VAERS and VSD) show
- 12 vaccinated people are suffering permanent disability and death from Covid-19
- 13 vaccination in staggering and unprecedented numbers.<sup>24</sup>
- 14 • Countries with the lowest vaccination rates experience the lowest number of coronavirus
- 15 cases; countries with lower vaccination numbers have far fewer cases than areas with

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17 Subramanian SV, et al. (September 30, 2021). *Increases in COVID-19 are unrelated to*  
 18 *levels of vaccination across 68 countries and 2947 counties in the United States.* Eur J Epidemiol.  
 2021;1-4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8481107/>.

19 <sup>19</sup> Dr. Yeadon Decl. ¶28; Dr. Parks Decl. ¶¶17, 20, 36, 43, 45, 50. Dr. McCullough Decl. ¶¶14-  
 21 21, 39, 40, 42, 65; Dr. Urso Decl. ¶¶27, 30.

20 Holcombe, M, et al. (August 6, 2021). *Fully Vaccinated People Who Get a CoVID-19*  
 21 *Breakthrough Infection Transmit the Virus, CDC Chief Says.* CNN Health.  
<https://www.cnn.com/2021/08/05/health/us-coronavirus-thursday/index.html>.

22 <sup>20</sup> Dr. Yeadon Decl. ¶28; Dr. McCullough Decl. ¶15.

23 Keehner, J, et al. (September 1, 2021). *Resurgence of SARS-CoV-2 Infection in a Highly*  
 24 *Vaccinated Health System Workforce (letter to the editor).* N Engl J Med 2021; 385:1330-1332.  
<https://www.nejm.org/doi/full/10.1056/NEJMc2112981>.

25 Chau, N.V.V., et al. (October 11, 2021). *Transmission of SARS-CoV-2 Delta Variant Among*  
 26 *Vaccinated Healthcare Workers, Vietnam,* Preprints with The Lancet.  
<https://ssrn.com/abstract=3897733>.

27 <sup>21</sup> Dr. Parks Decl. ¶¶37-49; Dr. Cole ¶10; Dr. Tyson ¶16.; Dr. Zelenko ¶13.

28 <sup>22</sup> Dr. Yeadon Decl. ¶¶15-23; Dr. Parks Decl. ¶16, 20, 42, 47, 49, 51. Dr. McCullough ¶59-63;  
 Dr. Urso Decl. throughout.

<sup>23</sup> Dr. Parks Decl. throughout; Dr. McCullough ¶¶57-63; Dr. Urso Decl. ¶26.

<sup>24</sup> Dr. Rose Decl. Exh. A. Dr. Cole Decl. throughout; Dr. Parks Decl. ¶¶22-23; Dr.  
 McCullough ¶44-48.



1 higher vaccination rates.<sup>25</sup>

2 Taken together, these facts (for context) emphasize what should already be obvious:  
3 Defendants do not possess any legal authority to require that Jonah be injected with this  
4 biotechnology; the injections are personal treatment only (hence not protecting public health), and  
5 they can only injure Jonah.

6 Covid-19 vaccination mandates here are an unconstitutional intrusion on natural immunity  
7 and bodily integrity. As a Covid-19 Recovered healthy young male college student, Jonah is  
8 indisputably at substantially heightened risk from the injection in two ways. The first risk is that  
9 young males are at very high risk of developing life-threatening myocarditis or pericarditis from the  
10 injection.<sup>26</sup> The second risk is that all Covid-19 Recovered persons are at heightened risk from the  
11 injection compared to those without prior infection, as explained with scientific citations in detail  
12 herein.<sup>27</sup> Additional risks are further stated in Plaintiff's expert declarations, including the note from  
13 Plaintiff's personal physician attached as Exhibit A to Plaintiff's declaration; ¶5 of Jonah's  
14 declaration shows clear and present danger, "My understanding after speaking with my physician is  
15 that I am not advised to take the COVID-19 vaccination, as the vaccination poses a statistically  
16 significant risk of harm based on my personal risk/benefit profile. In other words, statistically the  
17 vaccination cannot help me but can only harm me.")

18 *Jacobson v. Massachusetts* is increasingly being questioned (the official Lexis-Nexis  
19 Shepard's designation of the case is "Questioned"), and the police power is not a rubber stamp. This  
20 is confirmed in the most recent of United States Supreme Court cases, as well as historic cases. For  
21 example, consider the recently decided United States Supreme Court case *Roman Catholic Diocese*  
22 *v. Cuomo*, No. 20A87, 592 U.S. \_\_\_\_, 141 S. Ct. 63, 208 L. Ed. 2d 206, 211 (Nov. 25, 2020)

23 \_\_\_\_\_  
24 <sup>25</sup> Dr. Kory Decl. throughout; Dr. Cole Decl. ¶21; Dr. McCullough Decl. ¶¶20, 35.  
25 Subramanian SV, et al. (September 30, 2021). *Increases in COVID-19 are unrelated to*  
26 *levels of vaccination across 68 countries and 2947 counties in the United States*. *Eur J Epidemiol.*  
27 2021;1-4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8481107/>.

26 <sup>26</sup> Dr. Parks Decl. ¶22; Dr. McCullough Decl. ¶¶45, 51-52. See also scientific citations in ¶6 of  
27 the Complaint.

27 <sup>27</sup> Raw, R et al (2021). *Previous COVID-19 infection, but not Long-COVID, is associated with*  
28 *increased adverse events following BNT162b2/Pfizer vaccination*. *J Infect* 2021 Sep; 83(3): 381-  
412. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8164507/>.

1 (granting injunction against Governor Cuomo’s public health restrictions on religious services  
 2 because the restrictions were not actually serving public health in a manner consistent with the  
 3 Constitution), see especially Justice Gorsuch concurring,

4 “Why have some mistaken this Court’s modest decision in *Jacobson* for a towering  
 5 authority that overshadows the Constitution during a pandemic? In the end, I can  
 6 only surmise that much of the answer lies in a particular judicial impulse to stay out  
 7 of the way in times of crisis. But if that impulse may be understandable or even  
 8 admirable in other circumstances, we may not shelter in place when the Constitution  
 9 is under attack. Things never go well when we do.”) *Id.* at 214.<sup>28, 29</sup>

10 See also the excellent analysis of *Jacobson* in *Cnty. of Butler v. Wolf*, 486 F. Supp. 3d 883,  
 11 897 (W.D. Pa. 2020):

12 “There is no question, therefore, that even under the plain language of *Jacobson*,  
 13 a public health measure may violate the Constitution. *Jacobson* was decided over  
 14 a century ago. Since that time, there has been substantial development of federal  
 15 constitutional law in the area of civil liberties. As a general matter, this  
 16 development has seen a jurisprudential shift whereby federal courts have given  
 17 greater deference to considerations of individual liberties, as weighed against the  
 18 exercise of state police powers. That century of development has seen the  
 19 creation of tiered levels of scrutiny for constitutional claims. They did not exist  
 20 when *Jacobson* was decided. While *Jacobson* has been cited by some modern  
 21 courts as ongoing support for a broad, hands-off deference to state authorities in  
 22 matters of health and safety, other courts and commentators have questioned

23 <sup>28</sup> See also *Jew Ho v. Williamson*, 103 F. 10 (C.C. N.D. Cal. 1900), where the court properly  
 24 invalidated the quarantine of a San Francisco district that was inhabited primarily by Chinese  
 25 immigrants; the measure purportedly to control the spread of bubonic plague was found to increase  
 26 the risk of spreading the disease. This case emphasizes that public health authorities sometimes do  
 27 things that harm public health, and it is the job of the court to remedy the constitutional violation in  
 28 the name of individual and public health.

29 <sup>29</sup> Some of the public health information is so blatantly wrong it lacks even the pretense of  
 30 respectability. To provide one example, it was reported that 49 fully vaccinated New Jersey  
 31 residents died with Covid-19. Not wanting to admit the vaccines are harmful, the NJ health  
 32 department quickly put its own unique spin on the news, claiming that the 49 deaths occurred  
 33 among 4.8 million vaccinated residents, making the known death rate slightly greater than one in  
 34 100,000 fully vaccinated people. “*That means vaccines are about 99.999 percent effective in  
 35 preventing deaths due to COVID-19,*” said Dr. Ed Lifshitz, medical director of the department’s  
 36 Communicable Disease Service. <https://www.nj.com/coronavirus/2021/07/49-people-who-were-fully-vaccinated-have-died-of-covid-in-nj-heres-what-we-know.html>. This public official claimed,  
 37 in all seriousness, that if they didn't get the vaccine, the remaining 4.8 million people had a 100%  
 38 chance of dying of Covid-19. The fact that senior government officials resort to logical gymnastics  
 39 that Covid-19 somehow kills 100% of non-vaccinated people, simply underscores that public health  
 40 *propaganda* is dangerous and must not be treated as ‘sacred text’ by any court of law. The job of  
 41 courts is *scrutiny*.

1 whether it remains instructive in light of the intervening jurisprudential  
2 developments.”

3 There are many new cases recently filed and on appeal that have addressed Covid-19  
4 vaccination, some upholding constitutional rights and some deferring to state powers. But  
5 undersigned counsel is not aware of any case holdings directly on point to the facts here (namely,  
6 Covid-19 vaccination can produce zero public health benefit, and can only harm plaintiff).

7 **4. An Alternative And Complimentary Reason To Respect Jonah: Federal Statute  
8 On Emergency Use Authorization Respects Informed Refusal.**

9 Contrary to popular belief, all Covid-19 vaccines available to college students in Nevada are  
10 still authorized only for emergency use.<sup>30</sup> And the federal law governing such authorization, 21  
11 U.S.C. § 360bbb-3(e)(1)(A)(ii)(I-III), grants the patient explicitly “the option to accept or refuse  
12 administration of the [EUA] product”.

13 This is not mere semantics. ClinicalTrials.gov clearly states that the Moderna clinical trials  
14 are ongoing through October 27, 2022,<sup>31</sup> and the Pfizer clinical trials are ongoing through May 2,  
15 2023.<sup>32</sup>

16 Every FDA fact sheet for a Covid-19 vaccine available to Plaintiff states the same  
17 disclaimer, “It is your choice to receive or not receive the [Pfizer-BioNTech, Moderna, Janssen]  
18 COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical  
19 care.” This precise language is required by federal statute because available Covid-19 vaccines are  
20 *not* FDA approved but rather are Emergency Use Authorization (EUA) only.

21 \_\_\_\_\_  
22 <sup>30</sup> FDA (October 2021). *Comirnaty*. Vaccines, Blood, and Biologics.  
23 <https://www.fda.gov/vaccines-blood-biologics/comirnaty>.

24 Stieber, Z et al. (October 14, 2021). *Pfizer’s COVID-19 Vaccine With Comirnaty Label Still  
25 Not Available in US*. Epoch Times. [https://www.theepochtimes.com/mkt\\_app/approved-version-of-  
26 pfizers-covid-19-vaccine-still-not-available-in-us\\_4046513.html](https://www.theepochtimes.com/mkt_app/approved-version-of-pfizers-covid-19-vaccine-still-not-available-in-us_4046513.html).

27 <sup>31</sup> Moderna (updated June 10, 2021). *A Study to Evaluate Efficacy, Safety, and Immunogenicity  
28 of mRNA-1273 Vaccine in Adults Aged 18 Years and Older to Prevent COVID-19*.  
29 ClinicalTrials.gov Identifier: NCT04470427. <https://clinicaltrials.gov/ct2/show/NCT04470427>.

30 <sup>32</sup> Pfizer BioNTech SE (updated October 27, 2021). *Study to Describe the Safety, Tolerability,  
31 Immunogenicity, and Efficacy of RNA Vaccine Candidates Against COVID-19 in Healthy  
32 Individuals*. ClinicalTrials.gov Identifier: NCT04368728.  
33 <https://clinicaltrials.gov/ct2/show/NCT04368728>.

1 The same precise statutory language also applies for all Covid-19 tests and face coverings –  
 2 they too are EUA<sup>33</sup> and so pursuant to federal statute if an individual declines these EUA products,  
 3 it cannot change the individual's standard medical care.

4 Plaintiff in this case declines all these EUA products and the regulation adopted by  
 5 Administrator Defendants (Governor Sisolak and the Department of Public Health) threatens to  
 6 disenroll Jonah and remove his standard healthcare offered through Student Health Center  
 7 Services.<sup>34</sup> Therefore, Administrator Defendants are openly violating federal law (in a field  
 8 preempted by federal law) in pursuit of Defendants' highly suspect 'separate but equal' campus  
 9 segregation policies wherein students with natural immunity are treated like second class citizens.

10 Nowhere in an FDA fact sheet for vaccines, face masks, or Covid-19 tests, does it specify  
 11 that a person may be denied education, denied student health services, disciplined, required to seek  
 12 religious belief accommodation, or otherwise discriminated against for refusal. Nor does any fact  
 13 sheet state that people declining will be forced to use *additional* EUA products.

14 Plaintiff's expert declarations (such as Dr. Yeadon) confirm is a statistical certainty that a  
 15 person who is Covid recovered is **not** at risk of reacquiring Covid-19. But should such a person  
 16 undergo repeated PCR testing at a lab which uses a cycle threshold >30, it is inevitable that sooner  
 17 or later this person will have a false positive result. See Dr. Kammerer Decl. The popular  
 18 commercial labs near UNR use a Ct >40, guaranteeing false results. A false positive result will  
 19 force Jonah into a wholly unnecessary quarantine which is very punitive for a person living on  
 20 campus.

21 \_\_\_\_\_  
 22 <sup>33</sup> FDA (November 5, 2021). *Personal Protective Equipment EUAs*. Coronavirus Disease 2019  
 23 (COVID-19) Emergency Use Authorizations for Medical Devices. [https://www.fda.gov/medical-  
 24 devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-  
 25 devices/personal-protective-equipment-euas](https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/personal-protective-equipment-euas).

26 FDA (November 15, 2021). *In Vitro Diagnostics EUAs - Molecular Diagnostic Tests for  
 27 SARS-CoV-2*. Coronavirus Disease 2019 (COVID-19) Emergency Use Authorizations for Medical  
 28 Devices. [https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-  
 29 authorizations-medical-devices/in-vitro-diagnostics-euas-molecular-diagnostic-tests-sars-cov-2](https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas-molecular-diagnostic-tests-sars-cov-2).

<sup>34</sup> See e.g., University of Nevada, Reno (November 5, 2021). *Insurance and Fees*. Student  
 Health Center. <https://med.unr.edu/student-health-center/welcome/insurance-and-fees> ("If you have  
 paid your student health fee, there is no charge for your primary care office visit... If you are  
 enrolled in 1 or more credits, you have automatically been assessed the Student Health Fee.")

1 In addition to several states that have banned Covid-19 oppression (vaccine passports,  
 2 mandatory testing and masking),<sup>35</sup> some recent case law has criticized mandatory testing and found  
 3 it unenforceable in context.<sup>36</sup> PCR nasal testing involves a swab being placed inside a student's  
 4 nose by a stranger to remove genetic material that is then sent to a PCR laboratory for evaluation.  
 5 Although some promote the test as painless and quick, many students experience it as painful and  
 6 traumatic. Well-recognized side effects include bloody nose, nasal discomfort, headaches and nasal  
 7 lesions.<sup>37</sup>

8 Mandatory public health testing is disfavored in American law. See e.g., *Anderson v. City of*  
 9 *Taylor*, 2005 U.S. Dist. Lexis 44706 (E.D. Mich. August 11, 2005) (mandatory blood draws for a  
 10 firemen's "wellness program" under FEMA auspices was invalidated as a Fourth Amendment  
 11 seizure because the blood draws were mandatory and the firemen were subject to punishment for  
 12 not agreeing); *Dubbs v. Head Start, Inc.*, 336 F.3d 1194, 1203 (10th Cir. 2003) (reversing pretrial  
 13 dismissal of parents' 14<sup>th</sup> Amendment challenge to the school's practice of requiring blood tests and  
 14 physical examinations without parental consent; the 10<sup>th</sup> Circuit cited the United States Supreme  
 15 Court to protect "fundamental rights" in medical decision making).

16 It is perverse that a Covid-19 Recovered unvaccinated student who is at zero risk of  
 17 reinfection but a vaccinated student without natural immunity who is at high risk of what is  
 18 euphemistically called "breakthrough" (it's not "breaking through" anything – the shots simply  
 19 don't stop transmission) infection does not have to be tested. Naturally immune students are the  
 20 class of persons who are least likely to transmit the virus to others. Vaccinated students are more  
 21  
 22

23 \_\_\_\_\_  
 24 <sup>35</sup> Bunis, D, et al. (November 2021). *List of Coronavirus-Related Restrictions in Every State*.  
 25 AARP. <https://www.aarp.org/politics-society/government-elections/info-2020/coronavirus-state-restrictions.html>

26 <sup>36</sup> *Magliulo v. Edward Via Coll. of Osteopathic Med.*, No. 3:21-CV-2304, 2021 U.S. Dist.  
 27 LEXIS 159265, at \*18 (W.D. La. Aug. 17, 2021). Compare *Aviles v. De Blasio*, 2021 U.S. Dist.  
 28 LEXIS 38930 (S.D.N.Y. Mar. 2, 2021) pending appeal in the 2<sup>nd</sup> Circuit.

29 <sup>37</sup> Gupta K, Bellino PM, Charness ME. *Adverse effects of nasopharyngeal swabs: Three*  
 30 *dimensional printed versus commercial swabs*. INFECT CONTROL HOSP EPIDEMIOL.  
 31 2021;42(5):641-642. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7308627/>.

1 likely to transmit the virus to others.<sup>38</sup> This type of segregation is apartheid, plain and simple. It is  
 2 unequal application of the law, and a violation of the Equal Protection clause.<sup>39</sup>

3 The primary legal precedent on the EUA statute regards the anthrax vaccine in the military.  
 4 See *Doe v. Rumsfeld*, 341 F. Supp. 2d 1, 19 (2004) where the court found solitary confinement and  
 5 dishonorable discharge were unlawful consequences of a soldier's refusal of the EUA anthrax  
 6 vaccine. That court ruled that coercion violates federal law.<sup>40</sup>

7 **C. Jonah and Public Health Are Likely to Suffer Irreparable Harm in the Absence of**  
 8 **Preliminary Relief.**

9 “[C]onstitutional violations cannot be adequately remedied through damages and therefore  
 10 generally constitute irreparable harm.” *Nelson v. NASA*, 530 F.3d 865, 882 (9th Cir. 2008).<sup>41</sup>

11 Jonah's declaration in support of this TRO Application explains in detail the ways that he is  
 12 likely to suffer irreparable harm from the vaccine, and is currently suffering daily segregation  
 13 caused by the 'separate but equal' schooling policies of UNR.

14  
 15 <sup>38</sup> Keehner, J et al (2021). *Resurgence of SARS-CoV-2 Infection in Highly Vaccinated Health*  
 16 *System Workforce*. N Engl J Med 2021; 385:1330-1332.  
<https://www.nejm.org/doi/full/10.1056/NEJMc2112981>.

17 <sup>39</sup> Parasidis, E et al. (February 16, 2021). *Assessing The Legality Of Mandates For Vaccines*  
 18 *Authorized Via An Emergency Use Authorization*. Health Affairs.  
<https://www.healthaffairs.org/doi/10.1377/hblog20210212.410237/full/> (prominent health law  
 scholars state that individuals should not suffer reprisal for refusing an EUA product).

19 <sup>40</sup> Coercion, both physical and psychological, is also prohibited from being used to obtain  
 20 consent in search and seizure law generally. See *United States v. Hernandez*, 2015 U.S. Dist. LEXIS  
 21 114979, \*11 (W.D.N.C. July 28, 2015) (“Coercion may be actual or implied, and ‘no matter how  
 22 subtly the coercion was applied, the resulting ‘consent’ would be no more than a pretext for  
 unjustified police intrusion against which the Fourth Amendment is directed.’ [T]he government  
 must prove that ‘an individual freely and intelligently [gave] ... unequivocal and specific consent to  
 search, uncontaminated by any duress or coercion, actual or implied.”) (citing *Schneckloth v.*  
 23 *Bustamonte*, 412 U.S. 218, 228 (1973); *U.S. v. Morrow*, 731 F.2d 233, 235-36 (4th Cir 1984)).

24 <sup>41</sup> Irreparable harm is traditionally defined as harm for which there is no adequate legal  
 25 remedy, such as an award of damages. See *Rent-A-Ctr., Inc. v. Canyon Television & Appliance*  
 26 *Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991). Because intangible injuries generally lack an  
 adequate legal remedy, "intangible injuries [may] qualify as irreparable harm." *Id. Ariz. Dream Act*  
 27 *Coalition v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014). Moreover, to support injunctive relief,  
 harm must not only be irreparable, it must be imminent; establishing a threat of irreparable harm in  
 the indefinite future is not enough. Rather, "a plaintiff must demonstrate immediate threatened  
 28 injury as a prerequisite to preliminary injunctive relief." *Caribbean Marine Servs. Co., Inc. v.*  
*Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988).

1 Similarly, the expert declarations in support of this TRO Application explain the harrowing  
2 and unnecessary risks of life and limb that face Jonah and other students if forced to vaccinate.

3 “The push to vaccinate young, healthy people is unprecedented and unethical.  
4 Consider that according to the CDC, the primary cause of death of college-aged  
5 students is ‘unintentional injury,’ with the second ‘suicide. 4 Consider that the only  
6 young people who die from COVID-19 are those in extreme medical situations such  
7 as end stage leukemia. Consider that only 499 children have died with COVID-19  
8 on the death certificate (most *with*, not *from*) out of 72 million. Consider that deaths  
9 due to accidents exceed 14,000 in the same age group. Consider that there more than  
10 1000+ previously healthy kids have post vaccination myocarditis. Consider that  
11 current policies have exacerbated fear and isolation among adolescents and everyone  
12 else, resulting in increased death due to suicide, high-risk behavior, overdose,  
13 etc....It is immoral and unethical to offer this shot to healthy people whose birthright  
14 is many decades of good health without the shot. Upon receiving the shot, some  
15 percentage of these young (and middle-aged) healthy individuals will perish in the  
16 acute period and many will develop chronic disease over time. Lastly, there is an  
17 unknown effect on fertility. This is wholly unacceptable for a virus that current data  
18 does not suggest broad, long-term harm to these young and healthy individuals.”  
19 *Vladimir Zelenko, MD* (published expert and successful treating physician for  
20 thousands of Covid-19 patients utilizing treatment protocol adopted worldwide).

21 “Conclusion: Universal Covid vaccination harms the public health in three ways.  
22 First, universal vaccination should not be done during periods of high viral  
23 transmission, such as during a pandemic....Second, Covid vaccination increases viral  
24 transmission by resulting in the selection of resistant viral strains as well as people  
25 who become ‘immunological cripples’...Third, Covid injections also create an  
26 exceedingly high risk for the young and healthy, relative to their benefits. These  
27 injections use new gene-transfer therapy akin to a computer operating system, and  
28 currently have no long-term safety data coupled with exceedingly high short-term  
relative risk in the young and healthy.” *Christina Parks, PhD* (published expert in  
the genetics of Covid-19 vaccines).

“The vaccines do not work. We see that every day in our practice as vaccinated  
patients present with SARS-CoV-2 infections, and the data across the world  
confirms this. Vaccinated healthcare workers routinely pass the virus to each other,  
the CDC Director admitted the shots don’t stop transmission, and the most  
vaccinated nation in the world, Israel, has all but admitted total failure of the shots.  
[footnotes omitted]” *Brian Tyson, MD* (published expert physician treating over  
6,000 patients with Covid-19 in the hospital).

“Immunity from conquering the virus leaves the individual with *complete* immunity,  
that is, memorized immunity to all components of the virus. This means that,  
qualitatively, it cannot be improved upon by new technology genetic vaccines,  
because all the vaccines present to the human immune system, only a small fraction  
of the entire virus, the so-called spike protein. That means that immunity with one of  
the gene-based vaccines will always only be a subset of natural immunity.” *Michael*

1            *Yeadon, PhD* (published expert on Covid-19 vaccination, former Vice President and  
2 Chief Scientific Officer at Pfizer).

3            “Single Delta Strain... The Vaccines Do Not Stop Transmission of Delta... The  
4 Vaccinated Carry a High Viral Load...The Unvaccinated Do Not Pose a Risk to the  
5 Public At Large... Looking Backwards: Mass Vaccination Has Been Wholly  
6 Ineffective... Looking Forward; Mass Vaccination Will Continue to be Wholly  
7 Ineffective... Violent Enforcement Would Be Needed to Make Even a Theoretical  
8 Marginal Difference... No Asymptomatic Spread... COVID-19 is a Highly  
9 Treatable Condition... COVID Vaccine Is Associated with Many High Risks –  
according to the CDC... Myocarditis...Sample of Other Health Risks...COVID  
Vaccine is Even Higher Risk for the COVID-Recovered...COVID Vaccines Offer  
No Benefit for the COVID-Recovered.” *Peter McCullough, MD, MPH* (published  
expert on Covid-19 vaccination, professor at Texas A&M University School of  
Medicine).

10            “Natural Immunity is More Robust than Vaccine Immunity...Natural Immunity is  
11 More Durable than Vaccine Immunity...Heightened Risk From the Vaccine to the  
12 COVID-Recovered... Heightened Risk of Infection in the Vaccinated.” *Richard  
13 Urso, MD* (published expert, former clinical professor, and current board certified  
ophthalmologist, successfully treated over 1,000 Covid-19 recovered patients).

14            “In addition to the safety concerns, the pressure to mandate all persons to take these  
15 vaccines under the guise of public health is misguided because the shots do not stop  
16 the transmission of the virus. The Harvard School of Public Health analysis of 68  
17 countries and 2,947 counties across USA found ‘no discernable association between  
18 COVID-19 cases and levels of fully vaccinated. ... In fact the trend line suggests a  
marginally positive association such that countries with higher percentage of  
population fully vaccinated have higher COVID-19 cases.’” *Ryan Cole, MD*  
(published expert in clinical pathology and molecular diagnostics).

19            Defendants’ unscientific discrimination against unvaccinated Covid-19 Recovered students  
20 with superior immunity foreseeably places such students, including Plaintiff, under duress with  
21 respect to his exercise of informed refusal of Covid-19 vaccination.

22            The discriminatory techniques create an educational environment that is separate and  
23 unequal based on medical condition and natural mRNA genetic status. Among the duress  
24 techniques utilized by Defendant College Parties are the following examples:

- 25            a. Covid-19 vaccinated students may breathe freely outdoors, but unvaccinated Covid-19  
26 Recovered students with superior immunity can only breathe as the Defendant College  
27 Parties authorize.

28



1 b. Covid-19 vaccinated students are presumed healthy, but unvaccinated Covid-19  
 2 Recovered students with *superior* immunity are presumed unhealthy, and irrationally  
 3 humiliated and segregated and forced to submit to EUA tests intruding on student medical  
 4 privacy, in order to congregate with others, for example, in the dorms.

5 These policies cause direct and unnecessary disruption of Plaintiff's doctor-patient  
 6 relationship, bodily integrity, education, and livelihood.

7 Federal Courts have upheld the denial of equal access to college education as an injury,  
 8 especially where the denial is the result of unconstitutional actions (i.e., segregation) that make the  
 9 injury all the more pervasive. See e.g., *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 280 n.14  
 10 (1978),

11 "The constitutional element of standing is plaintiff's demonstration of any injury to  
 12 himself that is likely to be redressed by favorable decision of his  
 13 claim. *Warth v. Seldin*, 422 U.S. 490, 498 (1975). The trial court found such an  
 14 injury, apart from failure to be admitted, in the University's decision not to permit  
 15 Bakke to compete for all 100 places in the class, simply because of his race. Record  
 323. Hence the constitutional requirements of Art. III were met. The question of  
 Bakke's admission *vel non* is merely one of relief."

16 **D. In the Balance of Equities, Preliminary Relief Will Not Impose an Undue Burden  
 on Defendants.**

17 To qualify for injunctive relief, Plaintiff must establish that "the balance of equities tips in  
 18 his favor." *Winter, supra*, 555 U.S. at 20. In assessing whether the Plaintiff has met this burden, the  
 19 district court has a "duty . . . to balance the interests of all parties and weigh the damage to each."  
 20 *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1203 (9th Cir. 1980).<sup>42</sup> The  
 21 State "is in no way harmed by the issuance of an injunction that prevents the state from enforcing  
 22 unconstitutional restrictions." *Legend Night Club v. Miller*, 637 F.3d 291, 302–03 (4th Cir. 2011).

23  
 24 <sup>42</sup> Even "serious questions going to the merits and a balance of hardships that tips sharply  
 25 towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also  
 26 shows that there is a likelihood of irreparable injury and that the injunction is in the public interest."  
 27 *All. For The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9<sup>th</sup> Cir. 2011). The public interest and  
 28 the balance of the equities factors merge when the government stands as a party. See *Drakes Bay  
 Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435  
 (2009)); *Rosebud Sioux Tribe v. Trump*, 2020 U.S. Dist. LEXIS 192328, \*10 (D. Mont. Oct. 16,  
 2020).

1 The balance of equities favor Jonah, especially because natural immunity has served  
2 humanity for time immemorial. By contrast, the experimental mRNA and adenovirus vector  
3 vaccines mandated by Defendants have been around for about a year, and are already being  
4 investigated worldwide for causing excessive death and serious injury, as Plaintiff's experts have  
5 explained in detail.

6 Only in the upside-down world of 2021 (i.e., 'wear a mask, actually two masks, actually  
7 masks don't work, wait now they work again for vaccinated people indoors and unvaccinated  
8 people indoors and outdoors') could informed consent be categorized by the State as not being in  
9 the public interest, and that government clamoring to inject *everyone* with experimental mRNA in  
10 their bodies is immediately a so-called 'new normal' emergency [sic] justifying the Nevada  
11 emergency regulation at issue.

12 In the balance of equities, this Court can at least maintain the status quo as expert  
13 perspective brings to light the proven virtues of protecting natural immune Jonah from the  
14 mandatory biotech and segregation policies currently in favor with Defendants this month.

15 The present worldwide trend (i.e., several US States, Japan, Sweden, Finland, Denmark,  
16 Norway, India, and most countries on the African continent) is to stop aggressively pushing  
17 vaccination and start respecting natural immunity and proven cures like Ivermectin and HCQ.<sup>43</sup>

18 **E. Preliminary Relief Advances the Public Interest.**

19 Courts in the Ninth Circuit apply a sliding scale approach to preliminary relief. *See All. for*  
20 *the Wild Rockies, supra*, 632 F.3d at 1131. The reviewing court must balance the elements "so that a  
21 stronger showing of one element may offset a weaker showing of another." *Id.*

22  
23  
24  
25 <sup>43</sup> See e.g., Turner, H. (October 27, 2021). *Japan drops vax rollout, goes to Ivermectin, ENDS*  
26 *COVID almost overnight*. News Desk. [https://haltturnerradioshow.com/index.php/en/news-  
page/world/japan-drops-vax-rollout-goes-to-ivermectin-ends-covid-almost-overnight](https://haltturnerradioshow.com/index.php/en/news-page/world/japan-drops-vax-rollout-goes-to-ivermectin-ends-covid-almost-overnight).

27 Public officials are declaring openly that America is suffering because of vaccine mandates.  
28 See e.g., Los Angeles County Sherriff's Department (November 2, 2021). *Imminent Threat to*  
*Public Safety Due to Vaccine Mandates*. Press Conference. [https://lasd.org/imminent-threat-to-  
public-safety-due-to-vaccine-mandates/](https://lasd.org/imminent-threat-to-public-safety-due-to-vaccine-mandates/).

1 The Supreme Court held, in *Roman Catholic Diocese*, that “even in a pandemic, the  
2 Constitution cannot be put away and forgotten [... and] it has not been shown that granting the  
3 applications will harm the public.” 141 S. Ct. at 68

4 Defendants’ unscientific decision to reject Prescreening will increase the short-term and  
5 long-term vaccine injury rate thereby making Nevada campuses less safe from SARS-CoV-2, and  
6 other pathogens. The expert evidence shows Defendants’ broad attack on the bodily integrity of all  
7 students is an unconstitutional abuse of power that is harming public health, not advancing it.

8 **F. This Court Should Issue The Order to Show Cause.**

9 Burden shifting is a recognized pre-trial function of district courts. *See, e.g., McDonnell*  
10 *Douglas Corp. v. Green*, 411 U.S. 792, 801 (1973) (after plaintiff makes a prima facie showing of  
11 discrimination, the burden shifts to the defendant to show a lawful reason for defendant’s conduct).

12 The seriousness of the allegations in the Complaint, together with the weighty expert  
13 declarations in support of this motion, warrant an Order to Defendants to show cause why a  
14 preliminary injunction should not issue. It is expected that Defendants will attempt to rewrite history  
15 by denying the success of natural immunity.

16 But Defendants’ novel theories<sup>44</sup> for the coronavirus and its inherently experimental vaccine  
17 are based on conjecture that fails strict scrutiny when applied as a healthcare mandate. Defendants’  
18 pattern and practice of unsubstantiated conjecture has already been authoritatively rebutted by  
19 overwhelming scientific evidence, such that health authorities will (or *should*) correct their guidance  
20 imminently.<sup>45</sup>

21  
22  
23 <sup>44</sup> See e.g., Decl. of Dr. Risch providing a non-exhaustive debunking of the website that  
24 Defendants direct the public for information: Immunize Nevada (November 4, 2021). *Covid-19*  
25 *FAQ*. <https://www.nvcovidfighter.org/covid-19-faq>. Nevada’s public information here is so biased  
(such as its incomplete FAQ on ‘What Are The Side Effects of the Covid-19 Vaccine’), it is blatant  
vaccine salesmanship on the face of the document.

26 <sup>45</sup> Siri, A. (October 21, 2021). *Prelitigation communications with CDC to lift restrictions on*  
27 *the naturally immune*. [https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-](https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf)  
28 [Natural-Immunity-v-Vaccine-Immunity.pdf](https://www.icandecide.org/wp-content/uploads/2021/10/Reply-to-CDC-Re-Natural-Immunity-v-Vaccine-Immunity.pdf).

Andoh, R (November 5, 2021). *Final Response Letter*. CDC. [https://www.sirillp.com/wp-](https://www.sirillp.com/wp-content/uploads/2021/11/21-02152-Final-Response-Letter-Brehm-1.pdf)  
content/uploads/2021/11/21-02152-Final-Response-Letter-Brehm-1.pdf (CDC has no evidence of  
naturally immune person ever getting Covid-19).

1 Defendants' position is novel and radical. Scientifically accepted virology and immunology  
2 precepts<sup>46</sup> hold that immunity from natural infection is the best, most robust, and longest lasting  
3 way to deal with problems such as Covid-19. Defendants' statements to the contrary are  
4 categorically false, and courts must not defer to false statements simply because some government  
5 scientists argue for them. Rather, courts should apply strict scrutiny.

6 **CONCLUSION**

7 Robust and durable natural immunity is a fact, and it is impossible to reverse a vaccine  
8 injection. Jonah respectfully requests that this Court issue a temporary restraining order enjoining  
9 Defendants from enforcing their Covid-19 vaccine mandate that rejects scientifically accepted  
10 Prescreening. Plaintiff further requests an Order to Show Cause Why a Preliminary Injunction  
11 Should Not Issue against Defendants.

12 Dated this November 19, 2021

*/s/ Adam Fulton* \_\_\_\_\_

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27 <sup>46</sup> Delves, P, et al. (2017). *Roitt's Essential Immunology, 13<sup>th</sup> Edition*. Wiley-Blackwell.  
28 <https://www.wiley.com/en-us/Roitt%27s+Essential+Immunology%2C+13th+Edition-p-9781118415771>.