

UNITED STATES FEDERAL COURT
FOR THE
DISTRICT OF VERMONT

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Plaintiffs,)
V.)
)
PHILIP B. SCOTT, in his official capacity)
as Governor for the State of Vermont;)
TJ DONOVAN, in his official capacity as)
Attorney General of the State of)
Vermont; and **MARK LEVINE**, in his)
official capacity as Commissioner of)
the Vermont Department of Health,)
Defendants

Case No. 2:20-cv-218

Plaintiffs' Second Amended Complaint

Now come all Plaintiffs Pro Se to simplify the presentation of our claims in our second amended complaint in accordance with Federal rule 8(a)(2). We simplify our complaint as follows:

- 1. Whereas, justification for a continued state of emergency is currently scientifically unsubstantiated.** It was only indicated for the first weeks of the pandemic until it was clear that 3.4% death rate was a false number which would have resulted in 21,215 dead Vermonters. Other States have ended all mandates, one never implemented any, instead respecting the rights and wisdom of the people to choose for themselves. Article 4, section 2 of The US Constitution instructs: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.
- 2. Whereas, the continued state of emergency is economically damning in a manner that causes empirical, provable and enduring harm to the quality and nature of life in Vermont for the Plaintiffs.** The Plaintiffs' happiness is evidenced by our choice of Vermont for our home, complete with the enjoyment of our neighbors and friends, colleagues and business owners. Defendants draconian orders have negatively impacted Plaintiffs' 1st amendment rights to peaceably assemble, pursue happiness, and 4th amendment rights to be secure in our persons from unreasonable search and seizure.
- 3. Whereas, the Defendants' state of emergency and draconian mandates are unreasonable, unscientific, and experimental.** They have destroyed the fabric of Vermont society by destroying the rituals of our society, inclusive of holiday rituals, church and religious rituals, and end of life closure with family and friends. They have violated each Plaintiffs' right to pursue happiness, right to peaceably assemble, the right to freedom of religion, right to travel, right to breath of life and right to choose with whom we peaceably assemble, when we peaceably assemble, and what we do when we peaceably assemble. Defendants have violated the 14th amendment section 1 of the Bill of Rights: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;

4. **Whereas, the substance of Defendants mandates are deliberately overwhelming,** inclusive of rules that demand dictatorial control with punishment as if violation of law. However, the role of the Executive branch is not to make law. Their actions are full of hypocrisy. Their orders are arbitrary, capricious and contrary to their own stated aims of ‘Safety’.
5. **Whereas, the “science” Defendants’ claim to follow as justification for their methodology of handling of this pandemic is fraudulent.** The CDC has altered the methods of counting deaths which has grossly inflated Covid deaths, and both the State and the CDC have suddenly decided that there is absolutely no flu or pneumonia anywhere to be found. The tests give fraudulent outcomes. People are indeed dying, but not due to Covid in the large numbers the CDC and the State proclaim.
6. **Whereas, it is a violation of the first amendment establishment clause to mandate masking, hand washing and social distancing.** Social distancing was invented by the imagination of a 14 year old school girl for her school science project. These are cultic practices and represent the Defendants’ establishment of a religious belief that these practices will protect public safety, when in fact they do not. The Government rationale of safety and public health is a pretext to establish the state’s religious cult refuted worldwide by experts independent of the CDC, WHO, and Gates Foundation.
7. **Whereas, locking down and quarantine orders of healthy persons is a violation of the 5th Amendment.** The lockdown and quarantine of healthy people was administered without known consequence, as an experiment, it has never been done before. It has failed its scientific objective through its unintended consequences. Scientific studies describe its overwhelming harm. It is a violation of the 5th amendment to the bill of rights to be deprived of life, liberty, or property, without due process of law;
8. **Whereas, the [mask mandate](https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%20%20TO%20AMENDED%20AND%20RES TATED%20EXECUTIVE%20ORDER%20NO.%2001-20.pdf) of healthy people is unconstitutional, experimental, not supported by existing studies, and is harmful physiologically and psychologically.¹** Its inefficacy is described by many studies, doctors, and public health policy experts

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<https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%20%20TO%20AMENDED%20AND%20RES TATED%20EXECUTIVE%20ORDER%20NO.%2001-20.pdf>

independent of the CDC. Demanding that everyone wear a mask is dangerous to their health, does not significantly prevent viral transmission and in fact increases illness rather than prevents it. Masks do not protect the public against the virus.

9. Whereas, Defendants' demand for universal mask use is a cult-like method of scaring the people, hindering freedom of speech, and psychologically adversely affecting the people. Further, the Defendants have violated the separation of powers act to enforce their mask mandate, have persecuted VT businesses for serving those who do not wear masks, not on the basis of science, but on the basis of intimidation for dictatorial reasons.² Article 4, section 2 of The US Constitution instructs: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. Numbers of States have lifted the mask mandate or never had them. What gives this State the right to suffocate our particular freedom to breathe, or freedom to speak, our freedom to hear others, our freedom to communicate with others, our freedom to our breath of life as a religious experience, and to impair our health on the basis of their need to coerce everyone into taking injections that are not safe, or effective? What gives this state the right to hinder oxygen access to developing brains, are these decision makers putting up collateral for later damage to their brains? They do not, Plaintiffs hold in this complaint.

10. Whereas, the basis of the pandemic rests on results of a PCR and/or antigen test that scientifically does not, and cannot, assess with any reliable accuracy the existence or presence of a specific live virus. Additionally, the PCR test has been conducted using cycles that produce fraudulent positives. This means that pandemic deaths and cases are in question and grossly exaggerated and fraudulent. The Defendants have been administering tests that are false indicators of the presence of a Sars Cov 2 virus. Levine advises administering these PCR tests at 37-40 cycles, generating no true result. Our Defendants don't care because their only agenda is to influence the acceptance of experimental vaccines at unheard of profits for the elites and leaving the people to bear the liability. They have been promoting these fraudulent outcomes to pressure the people of Vermont.

² <https://ago.vermont.gov/wp-content/uploads/2021/03/Decision.pdf>

- 11. Whereas, asymptomatic people have been scientifically proven to not spread Sars Cov 2. The Plaintiffs exercise their right to petition the Government, specifically the judicial branch of government to grant them a trial to prove our positions.**
- 12. Whereas, healthy people, Plaintiffs among them, have been accused of being virus carriers and ordered [to lockdown](#) in violation³ of their 5th amendment rights, without scientific proof or substantiation.** Plaintiffs have been libelled by the Defendants as dangers to our community even in the peak of health. Their scientifically fraudulent justifications for their authoritarian overreach are all to coerce, frighten, fool and force residents of the State of Vermont into vaccine mandates.
- 13. Whereas; Defendants reject independent medical expertise, studies and practices that would better protect the wellbeing of Vermonters, Plaintiffs included.** They have at their disposal cheap and effective therapeutics that medical experts and professionals who have used them to prevent deaths and illnesses urge them to use for public safety. These methods and therapeutics would create widespread public protection from Sars Cov 2 for all Vermonters, the Plaintiffs included.
- 14. Whereas; independent experts on public health, infectious diseases have offered their consensus of cheap and effective methods of protecting public health and safety in a least restrictive and least disruptive manner.** 2020 need not have been the year of darkness, depression, anxiety, and trauma, but for Defendants who lie to the public and say they are all about safety, but in reality are interested in one outcome only; Total dictatorial governmental control of individuals' body and health and profits to be had by means of that control of the individual. This is a violation of the 13th amendment, section one.
- 15. Whereas, Defendants now order the public, Plaintiffs amongst them to host patented material, or restrict their lives⁴ so entirely if they do not.** When the patent holder claims ownership of the injected material (as Monsanto has successfully claimed when other farmers' crops are cross pollinated by Monsanto's gmo seeds), the body of

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<https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%208%20TO%20AMENDED%20AND%20RES TATED%20EXECUTIVE%20ORDER%2001-20.pdf>

⁴ <https://accd.vermont.gov/news/update-new-work-safe-additions-be-smart-stay-safe-order>

the individual is no longer self directed, but is subject to ownership or partial ownership by corporate entities. Gates has a patent for subcutaneous chips. Gates wants, according to his own words, to have the whole world vaccinated. Any scientist not beholden to the Gate's monolithic wealth and carefully cultivated appearance of gracious magnanimous generosity, will tell you, to study scientifically the efficacy of a vaccine, one needs to have equal unvaccinated numbers as a control group.

16. Whereas, Defendants are acting as overseers on behalf of Fauci, Gates and money interests vested in vaccines, the public being the 'crop. The body of the individual is no longer a vessel through which the individual has freedom to experience GOD, rather are inculcated by the Defendants to come under the control of aforesaid entities and persons. Plaintiffs put to the court, the Defendants want complete control of our every move, our every activity, ordering us not to dance! ⁵They offer to return our 'freedom' with compliance with Fauci/Gates' injection agenda. This is enslavement. Individual freedoms either are inalienable or they are not.

17. Whereas, "CDC members own numerous patents associated with vaccinations and regularly receive funding for their research work from the very same pharmaceutical companies who manufacture vaccinations which are ultimately sold to the public. This situation creates an obvious conflict of interest, as members of the ACIP committee benefit financially every time a new vaccination is released to the market." Defendants refute examining the extensive body of independent science which differs significantly from the Federal/State and CDC guidelines.⁶

18. Whereas; Defendants' public words and orders describe an ulterior motive to their "emergency". Defendants have made public their agenda to coerce, guilt, pressure, and reward and the people of Vermont into taking Covid 19 vaccinations. Their belief in

⁵ Ibid section 8.3 " No dancing is allowed."

⁶

<https://www.lawfirms.com/resources/environment/environment-health/cdc-members-own-more-50-patents-connected-vaccinations>

vaccines is not grounded in fact,⁷ and the ‘vaccines’ they are pushing are not ‘safe or effective’ no matter how many times the hypnotic chant is repeated or how religiously they believe in them. Nor are they vaccines in the understood sense of the word. It violates the Nuremberg Code to foist as safe and effective experimental injections that have not been determined safe through animal testing.

19. Whereas; Defendants currently violate Informed Consent. For if the public knew that these injections are modifying their bodies ‘software’ permanently and will cause genetic breakage, that independent experts warn will result in long term sterility, attenuation of the next round of wild virus, and if freedoms were not dangled as a reward, would they take it? Would Vermonters rush to be experimented on if these Defendants had not fastidiously programmed them to hypnotic obedience? The Plaintiffs have lost their countrymen and women to the Defendants cult programming, Plaintiffs are subjected to shame and public humiliation because Defendants have deliberately programmed the public beliefs to promote a fraudulent purpose, mass vaccination, that itself a criminal, murderous lie.

20. Defendants by their own admission began planning “since December 2019, Vermont has been working in close collaboration with the National Centers for Disease Control and Prevention (“CDC”) and with the United States Health and Human Services Agency to first monitor and plan for outbreaks of a respiratory illness due to a novel coronavirus (“COVID-19”) and then to implement measures to keep Vermonters healthy and safe”, which was prior to any pandemic death.⁸

21. Whereas, The Defendants have directed rules through ACCD and the current EO that violate our 4th amendment right to to be safe and secure in our persons, papers and affects. Defendants violate Plaintiffs’ right to be openly charged with a crime, before being removed from peaceably assembling at will, as if one is a danger to others. Another violation of due process.

⁷ See exhibit 1 [Japan Leads the Way in Child Health: No Compulsory Vaccines. Banned Measles Mumps Rubella \(MMR\) Vaccine](#)

⁸ <https://www.nytimes.com/article/coronavirus-timeline.html>

22. Whereas, the EO's exceed the Constitutional authority of the executive branch even in an all-hazards emergency. Defendant Scott has violated constitutional separation of powers, Defendant Donovan has encouraged him to do so, Levine has violated his oath to uphold the Constitutions.

23. Whereas, Defendants' claim that our low Covid death rates are a result of their mandates is scientifically debunkable, and false. Covid death rate is a reflection of historically proven excellent health of Vermonters. Defendants cannot claim that their lockdowns and mandates have spared lives. As a matter of fact more lives have been lost.

24. Whereas, these Defendants have traumatized the Plaintiffs and caused destruction of familial and community relationships, solely to fulfil their agenda to promote public acceptance of vaccinations. They have had little actual interest in the actual wellbeing and welfare of the people, Plaintiffs included. Defendants' sole purpose for the year long Emergency Order is to promote a vaccine agenda.

25. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed-That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." The Plaintiffs claim these Defendants have violated their oath to protect our inalienable freedoms so integrally, that they have dealt a mortal blow to the tenets upon which our American experience rests.

26. Whereas; Plaintiffs alter one reference in our historical founding documents to describe accurately our current situation. "The history of the present Bill Gates is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world." And so these Plaintiffs do. Our Defendants are

carrying out Gate's agenda which is married to profiteering of Big Pharma's, throwing Plaintiffs' constitutional rights under the bus, despite its absolute tyranny. ⁹ It should cause a shudder to every American to know that Gates owns the majority of farmland in the US. The US Government has tried and failed to break up Gate's antitrust monopolies in the past. ¹⁰

27. Whereas, Upon information and belief, the Defendants have conspired to establish an environment of fear, compliance and dictatorial control for the singular agenda of promoting public compliance with Fauci's, and Gates' vaccine agenda. In so doing They have irrevocably harmed the Plaintiffs. They have negatively harmed public methods of lawmaking, and They have additionally conspired to cripple Vermonters' freedoms of speech, the Plaintiffs among them. Defendants obsessive focus on mass injections of "vaccinations" is plainly on public display, and toward that end they insist on cult-like obedience of entirely health persons, constant testing, mask wearing, no singing, no dancing, no touching, no hugging, no traveling without imprisonment, even getting behind a 14 year old's invention; social distancing.

28. Whereas; Defendants' belief in vaccination appears religious. So mired are they in their belief that vaccination is the only path to public health, so steeped are they in the orthodox and dogma of the pharmaceutical elite, that they cannot consider less restrictive, less expensive and less dangerous ways to protect the Plaintiffs from, in Defendant Scotts' own words "... most individuals affected by COVID-19 will experience mild flu-like symptoms, "delivered one year ago on this date, March 13, 2021.

⁹ As early as May 21, 2000, Dr. Baric and UNC sought to patent critical sections of the coronavirus family for their commercial benefit. ¹ In one of the several papers derived from work sponsored by this grant, Dr. Baric published what he reported to be the full length cDNA of SARS CoV in which it was clearly stated that SAR CoV was based on a composite of DNA segments. "Using a panel of contiguous cDNAs that span the entire genome, we have assembled a full-length cDNA of the SARS-CoV Urbani strain, and have rescued molecularly cloned SARS viruses (infectious clone SARS-CoV) that contained the expected marker mutations inserted into the component clones." ² On April 19, 2002 – the Spring before the first SARS outbreak in Asia – Christopher M. Curtis, Boyd Yount, and Ralph Baric filed an application for U.S. Patent 7,279,372 for a method of producing recombinant coronavirus. In the first public record of the claims, they sought to patent a means of producing, "an infectious, replication defective, coronavirus." This work was supported by the NIH grant referenced above and GM63228. In short, the U.S. Department of Health and Human Services was involved in the funding of amplifying the infectious nature of coronavirus between 1999 and 2002 before SARS was ever detected in humans.

<https://f.hubspotusercontent10.net/hubfs/8079569/The%20FauciCOVID-19%20Dossier.pdf>

¹⁰ <https://www.justice.gov/atr/complaint-us-v-microsoft-corp>

29. Whereas: Defendants' belief in vaccinations as the sole path to public health is a religious belief, not a scientifically grounded one. If Defendants were innocent of all conspiracy with Fauci and Gates, innocent of racketeering and scientific fraud, if innocent of neglect of least restrictive methods, they then violate Plaintiffs' freedom of religion by forcing, ordering, shaming and and coercing Plaintiffs, to live by Defendants religious zeal for vaccines. Their belief in vaccines does not stand up to science, experts, studies or independent review. The fact that the makers of these products enjoy complete freedom from liability and that increased shielding from liability through EO's may be the exact motive Defendants have to continue it for an entire year.

30. Whereas, Look at all the Plaintiffs' have lost! Our way of life, our communities are driven to fear us when they have no scientific reason to. The small businesses we loved to support, financially broken with eighty eight thousand people put out of work by the Defendants. Friends, family and neighbors forced to take an experiment to keep working, the Plaintiffs watch in horror. Now observe, look at all the trillions the elite has earned. The Defendants engaged in a decided plan to destroy life as we know it, or are hopelessly ensconced in a religious cult, and have attempted to force their beliefs on the Plaintiffs in violation of our freedom of religion.

31. Whereas, Defendants' orders deserve to be determined under strict scrutiny include, their violations are at least as follows:

- a. Cause of action: Defendants have violated Plaintiffs' right to peaceably assemble.**
- b. Cause of action: Defendants have violated Plaintiffs' right to freedom of religion.**
- c. Cause of action: Defendants have violated Plaintiffs' rights to be free of search and seizure.**
- d. Cause of action: Defendants have violated Plaintiffs' right to pursuit of happiness.**

- e. **Cause of action: Defendants have ignored and/or curtailed Plaintiffs' right to petition the Government.**
- f. **Cause of action: Defendants have destroyed the normal practice in full public view of lawmaking and violated and/or curtailed the Plaintiffs' access to their representatives.**
- g. **Cause of action: The Defendants have violated their oath of office to uphold the Constitutions.**
- h. **Cause of action: The Defendants have violated our right to due process - to be innocent of endangering the public health when healthy, until proven guilty of actually endangering anyone's health.**
- i. **Cause of action: The Defendants falsely and fraudulently instigated a portrayal of the Plaintiffs as dangerous contaminants. In other words, Defendants create a fraudulent public impression that the Plaintiffs are dangerous to others in a broadly slanderous and libelous fashion. In fact, healthy persons pose no risk.**
- j. **Cause of action: The Defendants have violated Plaintiffs' right to enjoy equal protection in any state enumerated in the 14th amendment, including but not limited to, our right to travel uninhibited.**
- k. **Cause of action: The Defendants have violated our right to bodily autonomy, and our individual sovereignty over our personal bodies as instructed in the 1st amendment.**
- l. **Cause of action: The Defendants have violated Plaintiffs' freedom of speech, and have conspired to do so.**
- m. **Cause of action: The Defendants continue to conspire against the Plaintiffs' constitutionally natural and inherent rights with ongoing orders implemented with constabulary force.**

- n. Cause of action: Defendants have forced upon some Plaintiffs the humiliation of needing food stamps to endure the pandemic.

30. Whereas, Plaintiffs further hold the Defendants' conduct from March 13 2020 to present have violated the following US codes and are therefore actionable:

- A. [18 U.S. Code § 1040. Fraud in connection with major disaster or emergency benefits.](#)
- B. [Title 18, U.S.Code, § 241, Conspiracy against Rights;](#)
- C. [Title 18, U.S.Code, § 242, Deprivation of Rights under Color of Law;](#)
- D. [Title 18, U.S.Code § 1038, False Information and Hoaxes;](#)
- E. [Title 18, U.S.Code, § 1001, Statements and Entries Generally'](#)
- F. [Title 18, U.S.Code, § 1503, Influencing or Injuring Officers or Jurors Generally;](#)
- G. [Title 18, U.S.Code, § 1512B, Engages in Misleading Conduct;](#)
- H. [Title 18, U.S.Code, § 2071, Concealment, Removal or Mutilation Generally;](#)
- I. [Title 26, U.S.Code, § 7214, Offenses by Officers and Employees of the United States;](#)
- J. [Title 42, U.S.Code, § 1983, Civil Rights Action for Deprivation of Rights;](#)
- K. [Title 42, U.S.Code, § 1985\(3\), Conspiracy to Interfere with Civil Rights; and](#)
- L. [Title 42, U.S.Code, § 1986, Actions for Neglect to Prevent.](#)
- M. [Title 42, U.S.Code, § 2000\(A\) Prohibition against discrimination.](#)
- N. [Title 38 U.S. Code § 7331. Informed consent](#)

31. Whereas, It would be impossible for the Defendants to deny that their emergency orders have negatively affected our constitutional and inalienable rights to:

- A. To Peaceably Assemble
- B. To Religious Freedom
- C. To Pursue Happiness

D. To Due Process

E. To Freedom of Speech

F. To Travel

G. To Be Free of Search and Seizure

- 32. Whereas, the fact that the Defendants have upended the rights of the individual enumerated in the US and State Constitutions is obvious.** Defendants must not enjoy sovereign immunity from Plaintiffs claims and legal consequence because of Amendment VII. “ In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, then according to the rules of the common law.” Subsequent jurisprudence must first and foremost honor common law, therefore, Plaintiffs state our protected claim to all rights and processes of common law, in accordance with instructions of Amendment VII of the US Constitution.
- 33. Whereas, Violations of Plaintiffs’ individual inalienable rights are wounds to each, to the Republic of Vermont.** The Plaintiffs have an additional constitutional right to bring our causes of action before the Court to be decided by a jury.
- 34.** Whereas, The Defendants have no sovereign right to destroy our way of life in order to promote their religious beliefs in vaccines or their financial interests in the same. They are not immune to our cause of action.
- 35. Whereas, when the Plaintiffs’ elected executive public servants behave in a dictatorial fashion, using fraud, lies and deceptions to do so, they lose their rights to sovereign immunity.** They also lose their jobs, and the Court has Marbury v. Madison (1803) to guide it in this matter. ¹¹

¹¹ Marbury v. Madison (1803) The U.S. Supreme Court case Marbury v. Madison (1803) established the principle of judicial review—the power of the federal courts to declare legislative and executive acts unconstitutional.

36. **Whereas, when the people’s elected officials and their appointees are violating their oaths to uphold our local and US Constitutions, those elected officials and appointees do not have the protection of sovereign immunity.** They may not claim a pandemic emergency, using that ‘emergency’ to engage in scientific fraud.
37. **Whereas, here are links to [The Constitutions of the US](#)¹², [The Bill of Rights](#)¹³ and [The Vermont Constitution](#)¹⁴ and [Defendant Scott’s Executive Orders](#)¹⁵ to peruse.**
38. **Whereas, All of the Defendants have taken an oath to uphold our Constitutions, to find a way even in a pandemic emergency, to protect our inalienable, natural and inherent rights.** They have failed to uphold our inalienable rights. They DID have methods at their disposal to handle the pandemic less severely, and more effectively. They chose a different path, one that harms the Plaintiffs beyond words. The reasons why these Defendants failed to protect the tenets of our Constitutions and failed to consider expertise outside of Gate’s influence and did not seek the least restrictive, least disruptive, most effective means of handling the pandemic are the substance of Plaintiff’s complaint.
39. **Whereas, The Plaintiffs have been harmed in multiple numerous ways.** Their businesses, their children traumatized and denied schooling, their health and their wellbeing have been harmed. Plaintiffs are correctly fearful of the religious zeal by which these Defendants are mandating violations of our personal bodily space.
40. **Whereas, as of this date, Three Plaintiffs and two additional Vermonters are now actively engaged in leaving their beloved State of Vermont in fear of Defendants.** **A multi family property is under contract in another state for that purpose.** None of them would have dreamed of leaving Vermont a year ago, but now, in reasonable concern of Defendants’ intent to jab them, they seek a State that will respect their inalienable

¹² <https://www.archives.gov/founding-docs/constitution-transcript>

¹³ <https://www.ushistory.org/documents/amendments.htm> Nice website! Very easy!

¹⁴ [Constitution of the State of Vermont | Vermont General Assembly](#)

¹⁵ [Executive Orders](#)

rights. Plaintiffs should not have to move to a different State to enjoy our inalienable rights.

Relief sought

- 41. Plaintiffs seek the following immediate relief:** The Plaintiffs claim herein our right to be an unvaccinated “Control Group” and request the Court order these Defendants to recognize the scientific purpose for such a group (useful to public safety by virtue of measuring the safety of these experimental vaccines) and to recognize the Plaintiffs’ lawful status within it; ordering the Defendants to honor our inalienable rights named in this complaint, and to honor a Court ordered designated **Control Group**. Plaintiffs cite amendment IX and X in support of our request for this specific relief.
- 42. Plaintiffs seek this immediate relief:** that the Plaintiffs by Court order may immediately enjoy their right to breath of life, without fear of reprisal or punishment by the Defendants, or restriction of our normal activities by any establishment of business acting solely out of the Defendants' mandates, that did not ever before 2020 mandate masks of their customers. As per Article 4, section 2 of The US Constitution: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.
- 43. Plaintiffs seek this immediate relief:** That Defendants open the statehouse to the people of Vermont by immediate Court Order, so the people of Vermont may exercise their right to petition their government in the manner accustomed.
- 44. Plaintiffs seek this immediate relief:** The Plaintiffs seek this relief: that the Court Order the lifting of quarantine from all healthy and asymptomatic persons. As per Article 4,


section 2 of The US Constitution: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

- 45. The Plaintiffs seek this relief:** That the Court Order the Defendants to participate by their presence in a public hearing or meeting that will be preserved for the public wherein experts independent of the CDC, WHO, NIH describe their expert methods of preventing death, illness or harm by Sars Cov 2, and alternative methods of safely protecting the vulnerable, and health reasons to unmask.
- 46. The Plaintiffs seek this immediate relief:** The Court order the Defendants to abide by [Title 38 U.S. Code § 7331.Informed consent](#) immediately fully inform the people of the serious risks of participating in experimental injections, and specifically that the experiment is violating the Nuremberg Code, and have each participant fully aware that they bear the brunt of financial hardship in case of harm from these injections. That each participant know that company claims of 95% effective despite 3 or 4 months of trials, these injections called vaccines cannot be claimed to be safe and effective because their outcomes are completely unknown. They could have serious unknown long term risks that include physical impairment, death and sterility. That the Defendants provide public information and scrutiny of the deaths and injuries reported directly after vaccinations as reported by VAERS and other countries who have now banned some Covid 19 vaccinations.
- 47: The Plaintiffs seek the following relief:** That the Court Order of the Defendants by their own financial means place a bond in the amount of 100 million dollars, established to repair the economic harms stemming from physical harm of the experimental injections to the public by order of these Defendants. The public, Plaintiffs among them, should not bear the financial burden of caring for anyone harmed by these experimental injections the Defendants mandate all to undertake.

The Plaintiffs request trial by jury and damages of 100,000 thousand per Plaintiff, reimbursement of costs of litigation, including costs of equivalent to local attorneys while acting pro se, moving costs of Plaintiffs escaping for their inalienable rights, and additional punitive damages in an amount to be determined by the jury.

Respectfully lodged with our prayers

by Emily Peyton, Plaintiff Pro Se in agreement with all aforelisted Plaintiffs ProSe ,
on this Saturday, March 13th in the year 2021.



COMPLAINT
And
DEMAND FOR A JURY TRIAL
Request For Expedited Review
And
Motion for Injunctive Relief

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Introduction and Prayer for Relief

1: Over 110 years ago, at a time when medicine was not yet sufficiently advanced to have developed penicillin, and the germ theory of medicine was still new, and the terrain theory had not been introduced, The Supreme Court of the United States made a ruling related to a citizen's rights in healthcare that has remained largely unaddressed to this day. *Jacobson v. Massachusetts*, 197 U.S. 11 (1905). Over the century plus of time that has since passed the

~~Court has decided many critical cases revolving around individual rights that have never been squared with *Jacobson*, 197 U.S. 11, 29 (1905). Courts have a duty to intervene “if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law.” *Jacobson v. Massachusetts*, 197 U.S. at 31 (1905).~~

2. ~~A century ago many of our most sacred and fundamental rights were still being sorted out. Women’s suffrage had not yet occurred, civil rights barely existed, critical cases on fundamental rights such as interstate travel and bodily privacy had not come into play and the administrative state that we live in today simply did not exist. A century ago, people were not subjected to the messages of bureaucrats, technocrats, and the elite in the constant hammering manner that exists today through control of social media, news narrative, and the additional audience given to these as a result of the Emergency Orders. Throughout our history, fundamental rights have been discussed, argued and adjudicated. Legal issues pertaining to voting rights, interstate commerce and medical rights have recently leapt to the fore amidst covid-19 mandates. We the people are now subjected to the constant hammering of an official narrative by politicians, by the medical establishment and by the mainstream media.~~¹⁶

3. ~~Today, under the guidance of an unelected administrative structure, many of the rights that our Supreme Court has determined are fundamental under our Constitution are being denied. These fundamental rights are not being denied out of prudence. They are being denied due to unfounded fear and intentional manipulation. So successful is this manipulation that Chief Justice John Roberts was misled in a recent decision.~~¹⁷

¹⁶ Amended for clarity, not content.

¹⁷ See Attachment 2g correcting citation from original. ~~See Attachment A.1~~ and also: Dr. Ngozi Ezike - Director Illinois Department of Public Health- explained what it means to die “of” COVID. A clip of the press conference found on Redstate shows her making this incredible statement: “The case definition is...is...very simplistic. It means at the time of death...um...it was a COVID positive diagnosis. So that means if you were in hospice and had already been given, you know, a few weeks to live, and then you were also found to have COVID that would be counted as a COVID death. It means that if...um...technically even if you died of a clear alternate cause but you had COVID at the same time it’s still listed as a COVID death. So, um, everyone who is listed as “...a COVID death doesn’t mean that that

4. ~~But all is not lost.~~

1. ~~In its wisdom, the *Jacobson* court made clear that it never intended its decision to bar further review. To the contrary, the Court in *Jacobson* specifically stated:—“Before closing this opinion, we deem it appropriate, in order to prevent misapprehension as to our views, to observe -- perhaps to repeat a thought already sufficiently expressed, namely -- that the police power of a State, whether exercised by the legislature or by a local body acting under its authority, may be exerted in such circumstances or by regulations so arbitrary and oppressive in particular cases as to justify the interference of the courts to prevent wrong and oppression.” *Id.* at 38.~~

2. ~~For further guidance, The Department of Justice recently issued a Statement of Interest brief to support a church's lawsuit against a city for Constitutional overreach.¹⁸ The brief stated:~~

~~“There is no pandemic/emergency exception, however, to the fundamental liberties the Constitution safeguards. Indeed, “individual rights secured by the Constitution do not disappear during a public health crisis.” These individual rights, including the protections in the Bill of Rights made applicable to the states through the Fourteenth Amendment, are always in force and restrain government action.” And, “As important as it is that we stay safe during these challenging times, it is also important for states to remember that we do not abandon all of our freedoms in times of emergency,”~~

was the cause of the death but they had COVID at the time of death.” Nick Arama, Watch: Illinois Explains What Qualifies as a ‘COVID Death’, REDSTATE, (April 25, 2020) <https://www.redstate.com/nick-arama/2020/04/25/watch-illinois-explains-what-qualifies-as-a-covid-death/>

¹⁸ <https://www.justice.gov/opa/press-release/file/1323921/download>

3. — U.S. District Judge William S. Stickman wrote in a 66-page opinion regarding Governor Wolf's Pennsylvania emergency orders that the restrictions were overreaching, arbitrary, and violated citizens' constitutional rights.¹⁹

"The Constitution cannot accept the concept of a 'new normal,' where the basic liberties of the people can be subordinated to open-ended emergency mitigation measures," U.S. District Judge William S. Stickman IV wrote in a 66-page opinion. "Rather, the Constitution sets certain lines that may not be crossed even in an emergency."

The court's ruling found that Wolf's business shutdown plan, enacted by executive order in March as the pandemic took hold, violated the Constitution's equal protection clause, and that the administration's stay-at-home orders violated constitutional due process protections:

In his ruling, Stickman ... recognized that "defendants undertook their actions in a well-intentioned effort to protect Pennsylvanians from the virus."

But "good intentions toward a laudable end are not enough to uphold governmental action against a constitutional challenge," Stickman wrote.²⁰

4. — In recent months, protocols have been introduced without due process and with the clear threat to impose further lockdowns,²¹ interstate travel

¹⁹<https://uncoverdc.com/2020/09/15/us-district-judge-stickman-rules-pa-governor-wolfs-coronavirus-restrictions-unconstitutional/>

²⁰<https://www.penncapital-star.com/covid-19/federal-court-in-pittsburgh-declares-wolfs-key-covid-19-restrictions-unconstitutional/>

²¹

<https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%206%20TO%20EXECUTIVE%20ORDER%2001-20.pdf>.

~~has been severely restricted;²² privacy rights have been devastated;²² numerous businesses have been shut down without compensation, and many regulations are being implemented without statutory process requirements under the guise of a health emergency that is roughly as dangerous as a seasonal influenza outbreak. The plaintiffs in this case have all been injured in various capacities by these unconstitutional actions, and without action by the Court, will be left without redress. Inaction by the Court will allow states to withhold fundamental Constitutional rights in violation of US Supreme Court precedent, circumventing the appropriate levels of scrutiny applied to such rights, and justify such actions under public health emergency orders without subjecting those orders to any real, honest, and open review.~~

~~5. — We ask the Court in this case to:~~

~~1. — Reaffirm its position as a coequal branch of the government.~~

²² “Many jurisdictions have responded to the unevenness of the unfolding pandemic by battenning down their borders. Nearly half the states have imposed interstate travel restrictions to date...” David M. Studdert, LL.B., Sc.D, et al., Partitioning the Curve — Interstate Travel Restrictions During the Covid-19 Pandemic, NEW ENGLAND JOURNAL OF MEDICINE, (Aug. 5, 2020) <https://www.nejm.org/doi/full/10.1056/NEJMp2024274>. This has been done without meeting the strict scrutiny standard that has repeatedly been applied to the right to travel. In *United States v. Guest* 383 U.S. 745 (1966), the Court rearticulated that the Constitution did not explicitly mention the right to travel because a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. The constitutional right to travel from one State to another occupies a position so fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized. See also *Shapiro v Thompson*, 394 U.S. 618, 629-631 (1969).

²³ *Roe v. Wade*, 410 U.S. 113 (1973); Contact tracing: Laura Matrajt, et al., Evaluating the Effectiveness of Social Distancing Interventions to Delay or Flatten the Epidemic Curve of Coronavirus Disease, EID JOURNAL (Aug 2020) https://wwwnc.cdc.gov/eid/article/26/8/20-1093_article

2. — ~~Reaffirm the US Constitution is the supreme law of the land and that rights, especially fundamental rights, may not be abridged unless necessary to serve a compelling governmental interest, and that even then, those restrictions must be narrowly tailored to meet a compelling governmental interest.~~
3. — ~~Ensure there is an opportunity for redress under any emergency declaration. Recognize that the political process and operative orders are invalid if based on false or misleading information²⁴ or willful misrepresentation of statute or constitution and recognize the criticality that all future emergency orders be based and maintained on clear, honest facts - particularly when such orders are infringing on Constitutional rights.~~
4. — ~~Deny that Vermont Statute and the Vermont Constitution support the Defendant's declarations, viz Executive Order 01-20 and the ongoing state of emergency. The declaration states the following:~~

~~“NOW THEREFORE, I, Philip B. Scott, by virtue of the authority vested in me as Governor of Vermont and Commander-in-Chief, Vermont National Guard, by the Constitution of the State of Vermont, Chapter II, Section 20 and under 20 V.S.A. §§ 8, 9 and 11 and Chapter 29, hereby declare a State of Emergency for the State of Vermont.”²²~~
5. — ~~Rule that the specific citation of Constitution of the State of Vermont, Chapter II, Section 20 offers no indication of any special emergency authority of the Governor. As a result of these emergency orders,~~

²⁴ In *Romer v Evans*, 517 U.S. 620, 631 (1996), the Court stated actions must bear a rational relationship to some legitimate end. It necessarily follows that if the actions are based on false or fraudulent information that no rational relationship could be found.

Constitutional rights of Vermonters have been violated for over nine months.
See below and attachment 1:

(5a) To deny that Chapter II, Section 20 gives the Governor the authority he claims to call or continue a state of Emergency:

Chapter II, Section 20 is cited for justification of the Governor's authority for Executive Order 01-20 of March 13, 2020. But where in this chapter and section does one find instruction for an emergency?

~~“The Governor, and in the Governor's absence, the Lieutenant-Governor, shall have power to commission all officers, and also to appoint officers, except where provision is, or shall be, otherwise made by law or this Frame of Government; and shall supply every vacancy in any office, occasioned by death or otherwise, until the office can be filled in the manner directed by law or this Constitution. The Governor is to correspond with other States, transact business with officers of government, civil and military, and prepare such business as may appear necessary, to lay before the General Assembly. The Governor shall have power to grant pardons and remit fines in all cases whatsoever, except in treason in which the Governor shall have power to grant reprieves, but not to pardon, until after the end of the next session of the General Assembly; and except in cases of impeachment, in which the Governor shall not grant reprieve or pardon, and there shall be no remission, or mitigation of punishment, but by act of legislation. The Governor is also to take care that the laws be faithfully executed. The Governor is to expedite the execution of such measures as may be resolved upon by the General Assembly. And the Governor may draw upon the Treasury for such sums as may be appropriated by the General Assembly. The Governor may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the General Assembly only. The Governor may grant such licenses as shall be directed by law; and shall have power to call together the~~

~~General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be Captain-General and Commander-in-Chief of the forces of the State, but shall not command in person, in time of war, or insurrection, unless by the advice and consent of the Senate, and no longer than they shall approve thereof. And the Lieutenant-Governor shall, by virtue of office, be Lieutenant-General of all the forces of the State.” Even though~~ Chapter II, Section 20 provides numerous powers to the Governor, Plaintiffs have yet to find instructions to Defendant Scott regarding emergency authorization powers in the Vermont Constitution. He cites it, but a mention of an emergency power is nowhere to be found.

(5b) ~~Plaintiffs ask the Court to review Chapter II, Section 20 of the Vermont Constitution. Within Chapter II, Section 20, there are references to the Governor’s duty to prevail upon the General Assembly or the Senate, and specifically states a singular length of time, 30 days, that the Governor may act unilaterally without the involvement of the General Assembly. This phrase, held within Chapter II, Section 20 is: “The Governor may also lay embargoes, or prohibit the exportation of any commodity, for a time not exceeding thirty days, in the recess of the General Assembly only.” Lockdowns and quarantine act as a form of embargo. The 30 day timeframe has grown to nine months with no end in sight regarding unconstitutional governmental controlled restrictions on travel, commerce, and individual freedoms with no general assembly involvement. Due to ‘Legislation via Zoom’, this would also mean that public input regarding the legislative process would be eliminated or severely hindered at best.~~

(5c) ~~The General Assembly was in full session on March 13, 2020, when Executive Order 01-20 was signed. Defendant Scott did not have the Constitutional authority to call an emergency without the participation of the Assembly, much less continue it over nine months. He should have~~

directed the General Assembly in March to vote upon the matter because they were in session.

(5d) Defendant Scott also cites 20 V.S.A. §§ 8, 9 and 11 and Chapter 29 to carry on a state of emergency for nine months and counting, but here too, the citation is a misrepresentation of law for the contents of both sections 8, 9 specifically limit the Governor's authority. 20 V.S.A. General powers of the Governor § 8 (4) "~~*to take any measures not inconsistent with the constitution of this state.*~~" And 20 V.S.A. Emergency powers of the Governor § 9 (8) "~~*to take such action, not inconsistent with the Constitution and the laws of the State....*~~"

(5e) 20 V.S.A. § 11 concerns itself with an all-hazards event and outlines the possibility of needing to seize, take, or condemn property of the citizens of the state, redistribute it to fulfill needs, and the people's subsequent right to compensation and redress in superior court. Covid-19, which has had less of an effect on Vermonters than the seasonal flu, as expected from the outset does not qualify as an all-hazard event, as we will demonstrate in this complaint and later, at trial.

(5f) 20 V.S.A. § 29 concerns itself with removing liability from any entity that provides shelter during an emergency. There is no authority therein to call an emergency that violates the Constitution of Vermont and the US Constitution.

(5g) The content of Vermont's Constitution is robust with respect to the individual person's rights delineated in Article 1: "~~*That all persons are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and obtaining happiness and safety.*~~"

1. The particular result of Article 1 is that every person has the right to obtain safety within his or her independent inherent birthright,

- ~~2.—That persons may be independent in obtaining safety as a natural, inherent, and unalienable right;~~
- ~~3.—And that persons may be independent in obtaining happiness as a natural, inherent, and unalienable right.~~
- ~~4.—These rights cannot be given away by the person to the Governor, the Department of Health, or any other governmental agency, nor should persons be coerced to surrender them away.~~
- ~~5.—These rights cannot be usurped by design of emergency orders of the Governor or the State of Vermont, even during an emergency.~~
- ~~6.—Each person in Vermont has the individual right to obtain safety and happiness according to their natural, inherent, unalienable right.~~
- ~~7.—Nothing in this article, or anywhere in the Vermont Constitution or US Constitution states the Governor, the Health Department, or even the President may decide what constitutes safety and happiness on behalf of the persons of Vermont.~~

~~(5h)—Article 5 of the Vermont Constitution [Internal police] speaks to the police power of the state, and it states: ***“That the people of this state by their legal representatives have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.”***~~

- ~~1.—Defendants Scott, Levine and Donovan, have circumnavigated the Vermont Constitution to unlawfully act as internal police and to direct businesses to act as police without the authority of the people by and through their legal representatives.~~

~~(5i)—Article 9 of the Vermont Constitution [Citizens' rights and duties in the state; bearing arms; taxation] ***“That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute the member's proportion towards the expense of that protection, and yield personal service, when necessary, or***~~

~~*an equivalent thereto, but no part of any person's property can be justly taken, or applied to public uses, without the person's own consent..."*~~

(5j) — Article 10 of the Vermont Constitution instructs with regard to criminal prosecution. Prior to March of 2020, the term ‘lockdown’ was never broadly used as public vernacular, it was a term that denoted a specific jail, prison setting, or tragic school shooting:

1. — Defendant Scott ordered a lockdown of persons who have not committed any crime, whether the term quarantine is used or lockdown, the effect is that of house arrest.

2. — The suspicion of contagion of Covid-19 has become the equivalent of suspicion of a crime. Persons, under the emergency orders may be surveilled, ordered to house arrest/lockdown/quarantine on the suspicion of contagion:

3. — Thus Article 10 of the Vermont Constitution is important to view with its declaration of rights for those accused of Covid-19 contagion, since Defendant Scott’s orders have the equivalence of treating healthy people as if they are criminals:

4. — Thus, Article 10 is helpful. ~~*“[t]he person cannot be found guilty; nor can a person be compelled to give evidence against oneself; nor can any person be justly deprived of liberty....”*~~

5. — The unprecedented scope of the Emergency Orders has for the first time in history put healthy people into lockdown without due process:

(5k) — The most powerful clause of the Vermont Constitution with regard to Covid-19 emergency orders, is Article 15. [Legislature only may suspend laws]: ~~*The power of suspending laws, or the execution of laws, ought never to be exercised but by the Legislature, or by authority derived from it, to be exercised in such particular cases, as this constitution, or the Legislature shall provide for.*~~

6. ~~Issues that need to be held up, under oath, are the facts around the alleged virus, its existence, manner of testing, protocols, neglect of therapeutic prevention (cures), and the destruction of small businesses. The cornerstone of this case is this question: if an emergency can be declared and maintained without the participation of the General Assembly, and all rights are subject solely to the Defendants' idea of public benefit, wherein no public or legislative participation appears in those orders for 9 months ongoing, and the laws cited as the premise of the emergency do not offer the authority taken. How then, do any US or Vermont Constitutional principles or Vermont Statutes have any meaning whatsoever?~~

~~Motions, Prayer for Relief, and Request for Trial by Jury:~~

~~Plaintiffs request a trial by an independent jury of their peers. While we also ask the Court to consider and address the above questions, our specific prayer for relief requests the Court:~~

- ~~1. Grant a preliminary injunction against all current state actions and orders in Vermont issued under Declaration of Emergency in Response to COVID-19 and against the declaration itself until this case has been decided by the Court. We further ask the Court to review this emergency declaration and request for preliminary injunction under the strict scrutiny standard of review since fundamental Constitutional rights have been abridged under the guise of the emergency actions (see Motion for Preliminary Injunction).~~
- ~~2. Declare that the exigencies underlying the declaration for emergency do not exist.~~
- ~~3. Declare that the public health emergency based on Executive Order 01-20 has no legal or scientific basis.~~
- ~~4. Declare that all actions taken under Executive Order 01-20 are invalid due to Article 15 of the Vermont Constitution (“[t]he power of suspending laws, or the execution of laws, ought never to be exercised but by the Legislature, or the~~

~~authority derived from it, to be exercised in such particular cases as this constitution, or the Legislature shall provide for.”). Vt. Const., a. 15:~~

- ~~5. Declare that Executive Order 01-20 and all subsequent addendums and directives are no longer valid.~~
- ~~6. Declare all orders issued by state agencies under authority of the State Emergency Declaration are terminated 30 days after issuance, and appeal or application be made to the General Assembly thereafter for further direction in any emergency.~~
- ~~7. Declare that the people of Vermont in such an event will not be sequestered away from the General Assembly by conducting lawmaking through Zoom instead of in person presence of the people as conferred by Article 13, 18, and 20 of the Vermont Constitution. See Vt. Const., art. 13, 18, 20.~~
- ~~8. Grant injunctive relief against future public health emergency declarations in the State of Vermont without enabling legislation.~~
- ~~9. Grant permanent injunctive relief against future actions taken under the guise of this or any other public health emergencies that violate legislative or Constitutional rights without meeting the appropriate standards of review under established law or precedent.~~
- ~~10. Declare that the lowest standard of review available under an emergency declaration, this broad and long standing, is strict scrutiny.~~
- ~~11. Grant permanent injunction against future public health emergencies for more than 30 day period of time without regular reauthorization by the legislative body.~~
- ~~12. Grant injunctive relief against any future enforcement actions by any Vermont government agency against the implementation or enforcement of State emergency orders against small businesses as discussed throughout this Complaint.~~
- ~~13. Damages for Plaintiffs in an amount of \$75,000.00 each or an amount determined appropriate by the jury pursuant to 42 U.S. Code § 1983.~~
- ~~14. Grant injunctive relief from the Vermont legislature passing laws regarding any and all potential emergency orders until this lawsuit is settled.~~

~~7. Plaintiffs also make the unique request that this case be tried by a jury in a traditional courtroom setting as it is clear that isolating jury members in “COVID Chambers” will bias the jury in this case. We further ask that the courtroom and trial be conducted in “normal” conditions so as not to bias the rights of the Plaintiffs. This case is a critical Constitutional case of first impression and if ever there were a demonstration of the fact that the Constitution must be honored at all times, especially in times of crisis, that time is now.~~

Parties

Plaintiffs’ Notices of Pro Persona Appearance and affidavits are attached and incorporated by reference

Plaintiffs include:

James R. Hogue - 492 Tucker Rd, Plainfield, VT 05667

I am: Emily Peyton - Po Box 821, Putney VT 05346

Karen Eddings - 106 VT 110 Chelsea, VT 05038 (physical address)

PO Box 226, Chelsea, VT 05038 (mailing address)

Morningstar Porta - 86 North Champlain St. #2, Burlington VT 05401

Kathleen M. Tarrant - 15 Elm St. #1, Waterbury VT 05676

Deborah Dailey - 1530 Hardwood Flats Rd., Wolcott, VT 05680

Defendants are as follows:

Philip B. Scott/PHILIP B SCOTT

In his official capacity as Governor of Vermont

109 State Street, Pavilion

Montpelier, VT 05609

Mark Levine /DR.MARK LEVINE

In his capacity as Health Commissioner of Vermont

108 Cherry Street, Suite 301

Burlington, VT, 05401

T. J. Donovan/ TJ DONOVAN

In his official capacity as Attorney General of Vermont

Vermont Attorney General's Office

109 State Street

Montpelier, VT 05609

Standing, Venue, and Jurisdiction

8. This action arises under the Constitution and laws of the United States. This Court has subject matter jurisdiction over this matter as it pertains to multiple Federal Constitutional issues arising under the 1st, 4th, 5th, 6th, 9th, and 14th amendments and related precedent under 28 U.S.C. §§ 1331 and 1343.

~~9. This Court also maintains subject matter jurisdiction to claims under 42 U.S. Code § 1983 within this case as they all include violations of Constitutional law. Under 28 U.S.C. 1367 this Court maintains supplemental jurisdiction over state constitutional claims.~~

~~10. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, by *Ex parte Young*, 209 U.S. 123 (1908), and by the general legal and equitable powers of this Court. 12. Plaintiffs' claim for an award of their reasonable costs of litigation, including attorneys' fees and expenses, is authorized by 42 U.S.C. § 1988 and other applicable law.~~

~~11. Venue is proper within this Court under 28 U.S.C. 1391. Venue is proper under 28 U.S.C. § 1391(b) because the Office of the Governor of Vermont, the Office of the Vermont Attorney General, and the Vermont Department of Health are located in this judicial district and all Defendants are residents of the State.~~

~~12. Standing requires that the plaintiff must personally have: 1) suffered some actual or threatened injury; 2) that injury can fairly be traced to the challenged action of the defendant;~~

and 3) that the injury is likely to be redressed by a favorable decision.²⁵ As noted above, Plaintiffs have all suffered substantial injury in various ways due to the State's unconstitutional actions in response to COVID-19 and those injuries can be redressed through the various prayers for relief included in this complaint.

Facts

13. The fact pattern for this case is extremely complex. A number of sections below discuss errors or the debunking of what is intentionally misleading information put forth by the State or CDC. COVID-19 is less lethal than many other infectious diseases that have not had similar drastic steps taken. The reaction to COVID-19 is the definition of arbitrary. The continuation of this overreaction has occurred due to the reality that the facts are complex enough that few have realized how badly they have been misled. Here we attempt to simplify the facts into a digestible narrative.

14. Injury occurred through the issuance of various orders and also promulgated under the emergency declaration timeline as discussed below:

Timeline

2019

- 01/08 An Executive Order Promulgating the Vermont State Emergency Management Plan for 2019²⁶.
- 07/19 Vermont Governor's Emergency Preparedness Advisory Council Executive Order 06-19.²⁷
- 11/17 - Potential Patient Zero (Wuhan, China).²⁸

²⁵ *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). Importantly, standing is not “dispensed in gross,” and, accordingly, a plaintiff must demonstrate standing for each claim “he seeks to press and for each form of relief that is sought.” See *Davis v. FEC*, 554 U.S. 724, 734 (2008). Moreover, when there are multiple parties to a lawsuit brought in federal court, “[f]or all relief sought, there must be a litigant with standing, whether that litigant joins the lawsuit as a plaintiff, a co-plaintiff, or an intervenor as of right.” See *Town of Chester v. Laroe Estates, Inc.*, 581 U.S., No. 16–605, slip. op. at 6 (2017).

²⁶ <https://governor.vermont.gov/content/state-emergency-management-plan-promulgation-executive-order-01-19>.

²⁷ <https://governor.vermont.gov/content/governors-emergency-preparedness-advisory-council-excutive-order-06-19>.

²⁸ Coronavirus: DOD Response Timeline, U.S. DEPARTMENT OF DEFENSE, (Last visited Aug 29, 2020), <https://www.defense.gov/Explore/Spotlight/Coronavirus/DOD-Response-Timeline/>.

- ~~12/1 - Vermont works in close collaboration with the Center for Disease Control and Prevention (“CDC”) for outbreak.²⁹~~
- ~~12/8 - First person to test positive (Wuhan, China).³⁰~~
- ~~12/31 - World Health Organization (“WHO”) China Country Office was informed of cases of pneumonia of unknown etiology (unknown cause) detected in Wuhan City, Hubei Province of China.³¹~~

2020

- ~~1/1 - Wuhan, China officials close seafood market, thought to be the source of the first viral pneumonia cases.³²~~
- ~~1/7 - China confirms a COVID-19 case.³³~~
- ~~1/7 - CDC establishes the Coronavirus Incident Management System.³⁴~~
- ~~1/10 - COVID-19 sequence was known in National Institutes of Health’s (“NIH”) vaccine trial – per Anthony S. Fauci’s (“Fauci”) congressional testimony on 5/12/20: **Please note:** NIH/Fauci began a vaccine trial 2 days before WHO or China even released the COVID-19 sequence on 1/12. This was before there was even a confirmation it had spread outside of China on 1/13, before WHO confirmed it could even spread between humans on 1/14 and before they declared it a public health emergency on 1/30. Fauci’s congressional testimony is not consistent with the WHO facts - he testified “we actually started that [vaccine development] in January,” literally days after the virus was known and its sequence was published. (Timestamp 01:16:50)³⁵ Unless CDC Director Redfield’s comments saying he personally had discussions with Chinese scientists 1/3 explains the discrepancy (Timestamp 03:14:50).³⁶~~
- ~~1/10 - CDC launches dedicated COVID-19 website.³⁷~~
- ~~1/11 - Vaccine Research Center met to develop a plan – per Fauci’s congressional testimony on 5/12/20 (Timestamp 32:41).³⁸~~
- ~~1/11 - First coronavirus death worldwide is reported in Wuhan, China.³⁹~~

²⁹ Amended and Restated Executive Order No. 01-20, (Jun 15, 2020), <https://governor.vermont.gov/sites/scott/files/documents/Amended%20and%20Restated%20Executive%20Order%20No.%2001-20.pdf>.

³⁰ See footnote 12.

³¹ Pneumonia of unknown cause – China, WORLD HEALTH ORGANIZATION, (Jan 5, 2020), <https://www.who.int/csr/don/05-january-2020-pneumonia-of-unkown-cause-china/en/>.

³² See footnote 12.

³³ See footnote 12.

³⁴ See footnote 12.

³⁵ Dr. Anthony Fauci & CDC Director Senate Testimony Transcript May 12, REV.COM (Timestamp 01:16:50, May 12, 2020), <https://www.rev.com/blog/transcripts/dr-anthony-fauci-cdc-director-senate-testimony-transcript-may-12>.

³⁶ See footnote 19.

³⁷ See footnote 12.

³⁸ See footnote 19.

³⁹ See footnote 12.

- ~~1/12 - China publicly shared the genetic sequence of COVID-19.⁴⁰~~
- ~~1/13 - Officials confirm a case of COVID-19 in Thailand, the first recorded case outside of China.⁴¹~~
- ~~1/14 - Officially started vaccine development - per Fauci's congressional testimony on 5/12/20 (Timestamp 32:41).⁴²~~
- ~~1/14 - WHO's technical lead for the response noted in a press briefing there may have been limited human-to-human transmission of the coronavirus (in the 41 confirmed cases), mainly through family members, and that there was a risk of a possible wider outbreak.⁴³~~
- ~~1/20 - First reported United States coronavirus case in Washington State.⁴⁴ Other cases have since been discovered to exist prior to this date (see below).~~
- ~~1/23 - WHO considered it "still too early to declare a Public Health Emergency of International Concern (PHEIC)."⁴⁵~~
- ~~1/23 - China puts Wuhan on lockdown.⁴⁶~~
- ~~1/30 - CDC identifies person-to-person transmission in the United States.⁴⁷~~
- ~~1/31 - United States President Donald Trump (POTUS) proclaims travel restriction on China for entering the United States.⁴⁸~~
- ~~2/4 - The United States Food and Drug Administration granted the CDC Emergency Use Authorization for a kit to detect coronavirus infection for which they provided no public notice regarding the establishment of an Institutional Review Board (IRB) "with the concurrence of a licensed physician who is a member of or consultant to the IRB and is not otherwise participating in the clinical investigation", as required under 21 C.F.R. Section 50.24.~~
- ~~2/6 - First alleged COVID-19 death in the United States.⁴⁹~~

⁴⁰ Archived: WHO Timeline - COVID-19, WORLD HEALTH ORGANIZATION, (April 27, 2020), <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>.

⁴¹ See footnote 24.

⁴² See footnote 19.

⁴³ See footnote 24.

⁴⁴ See footnote 12.

⁴⁵ Rolling updates on coronavirus disease (COVID-19), WORLD HEALTH ORGANIZATION, (July 31, 2020), <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.

⁴⁶ See footnote 12.

⁴⁷ CDC Confirms Person-to-Person Spread of New Coronavirus in the United States, CENTERS FOR DISEASE CONTROL AND PREVENTION NEWSROOM (Jan 30, 2020), <https://www.cdc.gov/media/releases/2020/p0130-coronavirus-spread.html>.

⁴⁸ Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus, (Jan 31, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-persons-pose-risk-transmitting-2019-novel-coronavirus/>.

⁴⁹ See footnote 12.

- ~~2/11 - World Health Organization officially names the disease caused by the new coronavirus: COVID-19.⁵⁰~~
- ~~2/26 - COVID-19 has now been detected in every continent except Antarctica.⁵¹~~
- ~~3/6 - POTUS signs Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 passing \$8.3B.⁵²~~
- ~~3/8 - Italy declares a country-wide lockdown.⁵³~~
- ~~3/13 - POTUS declares the COVID-19 outbreak a national emergency.⁵⁴~~
- ~~3/13 - Defendant Scott declared a state of emergency to help ensure Vermont has all the necessary resources to respond to the COVID-19 public health emergency. Vermont had 2 'positive' cases.⁵⁵~~
- ~~3/15 - Governor Scott directed the dismissal of PreK-12 schools and the development of a Continuity of Education Plan.⁵⁶~~
- ~~3/16 - White House announces, "15 Days to Slow the Spread," a nationwide effort to slow the spread of COVID-19 through the implementation of social distancing at all levels of society.⁵⁷~~
- ~~3/16 - Governor Scott ordered the closure of all bars and restaurants statewide.⁵⁸~~
- ~~3/17 - Governor Scott directed childcare centers across Vermont to close normal operations but encouraged continued operation exclusively where needed to provide childcare services for workers who are essential to Vermont's ongoing effort in community mitigation of COVID-19.⁵⁹~~

⁵⁰ See footnote 12.

⁵¹ See footnote 12.

⁵² Remarks by President Trump at Signing of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Mar 6, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-signing-coronavirus-preparedness-response-supplemental-appropriations-act-2020/>.

⁵³ See footnote 12.

⁵⁴ Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, (Mar 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

⁵⁵ Declaration of State of Emergency in Response to COVID-19, (Mar 13, 2020), <https://governor.vermont.gov/content/declaration-state-emergency-response-covid-19-and-national-guard-call-out-eo-01-20>.

⁵⁶ Directive 1 - Continuity of Education Planning, (Mar 15, 2020), <https://governor.vermont.gov/content/directive-1-continuity-education-planning-pursuant-eo-01-20>.

⁵⁷ 15 Days to Slow the Spread, (Mar 16, 2020), <https://www.whitehouse.gov/articles/15-days-slow-spread/>.

⁵⁸ Addendum 2 to Executive Order 1-20, (Mar 16, 2020), <https://governor.vermont.gov/content/addendum-2-executive-order-01-20>.

⁵⁹ Directive 2 - Childcare for Essential Service Providers, (Mar 17, 2020), <https://governor.vermont.gov/content/directive-2-childcare-essential-service-providers-pursuant-eo-01-20>.

- ~~3/18 - POTUS signs Family First Act, providing \$3.5B emergency supplemental appropriations related to COVID-19, as well as waivers and modifications of Federal nutrition programs, employment-related protections and benefits, health programs and insurance coverage requirements, and related tax credits during the COVID-19 public health emergency.⁶⁰~~
- ~~3/18 - Governor Scott suspended in-person transactions at the Department of Motor Vehicles.⁶¹~~
- ~~3/20 - Governor Scott ordered the suspension of all non-essential adult elective surgery and medical surgical procedures.⁶²~~
- ~~3/21 - Governor Scott further restricted non-essential gatherings to 10 or less people, and ordered the closure of close-contact businesses.⁶³~~
- ~~3/23 - Governor Scott ordered telecommuting or work from home procedures for all businesses and not-for-profit entities, to the maximum extent possible (effective March 23-May 15, 2020).⁶⁴~~
- ~~3/24 - Governor Scott issued a “Stay Home, Stay Safe” order and directed the closure of in-person operations for all non-essential businesses (effective March 25-May 15, 2020).⁶⁵~~
- ~~3/24 - National Vital Statistics System (NVSS) released the formal guidance regarding a “newly-introduced ICD [international classification of disease] code” (U07.1) to “accurately capture mortality data for Coronavirus Disease 2019 (COVID-19) on death certificates” (National Vital Statistics System, 2020). These guidelines usurped the 2003 data collection guidance that is used for all other infectious diseases and causes of death data and are unique to COVID-19.⁶⁶~~

⁶⁰ Statement by the President, (Mar 18, 2020), <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-35/>.

⁶¹ Directive 3 - Department of Motor Vehicles Suspension of In-Person Transactions, (Mar 18, 2020), <https://governor.vermont.gov/content/directive-3-department-motor-vehicles-suspension-person-transactions-pursuant-eo-01-20>.

⁶² Addendum 3 to Executive Order 1-20, (Mar 20, 2020), <https://governor.vermont.gov/content/addendum-3-executive-order-01-20>.

⁶³ Addendum 4 to Executive Order 1-20, (Mar 21, 2020), <https://governor.vermont.gov/content/addendum-4-executive-order-01-20>.

⁶⁴ Addendum 5 to Executive Order 1-20, (Mar 23, 2020), <https://governor.vermont.gov/content/addendum-5-executive-order-01-20>

⁶⁵ Addendum 6 to Executive Order (EO) 1-20, (Mar 24, 2020), <https://governor.vermont.gov/content/addendum-6-executive-order-01-20>.

⁶⁶ NVSS: National Vital Statistics System COVID-19 Alert No. 2., CENTERS FOR DISEASE CONTROL AND PREVENTION. (Mar 24, 2020), <https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-death.s.pdf>.

- ~~3/26 - Governor Scott directed schools to remain dismissed for in-person instruction through the end of the 2019-2020 school year and ordered districts to implement continuity of learning plans for remote learning.⁶⁷~~
- ~~3/27 - POTUS signs \$2T+ in relief package, providing emergency relief to families and small businesses that have been impacted by COVID-19.⁶⁸~~
- ~~3/28 - Wuhan, China, partially re-opens after two-month lockdown.⁶⁹~~
- ~~3/29 - POTUS extends social distancing guidelines through April 30, 2020.⁷⁰~~
- ~~3/30 - Governor Scott ordered residents and non-residents coming from outside the state for any non-essential purpose to quarantine for 14 days and strongly discouraged travel to Vermont from any COVID-19 “hot spots” designated by the CDC.⁷¹~~
- ~~4/3 - CDC advises the public to wear face coverings in public.⁷²~~
- ~~4/7 - Governor Scott requested federal disaster funds to assist the state of Vermont in its response to the COVID-19 pandemic. The request asked for federal Public Assistance (PA) funds for the state and all towns for costs incurred in the response to and recovery from the COVID-19 pandemic, as well as Individual Assistance, including Disaster Unemployment Assistance and Crisis Counseling Assistance/Regular Services Program for all Vermont counties.⁷³~~
- ~~4/8 - Wuhan, China, ends its more than two-month lockdown.⁷⁴~~
- ~~4/9 - Federal Reserve announces actions to provide up to \$2.3T in loans to support the economy.⁷⁵~~
- ~~4/10 - Governor Scott announced that the COVID-19 State of Emergency had been extended to May 15, 2020.⁷⁶~~
- ~~4/16 - POTUS announces guidelines on the three phases of Opening Up America Again.⁷⁷~~

⁶⁷ Directive 5 - Continuity of Education Planning (Pursuant to EO 1-20), (Mar 26, 2020), <https://governor.vermont.gov/content/directive-5-continuity-learning-planning-pursuant-eo-01-20>.

⁶⁸ President Donald J. Trump Is Providing Economic Relief to American Workers, Families, and Businesses Impacted by the Coronavirus, (Mar 27, 2020), <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-providing-economic-relief-american-workers-families-businesses-impacted-coronavirus/>.

⁶⁹ See footnote 12.

⁷⁰ See footnote 12.

⁷¹ Addendum 7 to Executive Order 1-20, (Mar 30, 2020), <https://governor.vermont.gov/content/addendum-7-executive-order-01-20>.

⁷² See footnote 12.

⁷³ Governor Phill Scott Submits Request for Federal Disaster Declaration, (Apr 7, 2020), <https://governor.vermont.gov/press-release/governor-phil-scott-submits-requests-federal-disaster-declaration>.

⁷⁴ See footnote 12.

⁷⁵ See footnote 12.

⁷⁶ Addendum 9 to Executive Order 1-20, (Apr 10, 2020), <https://governor.vermont.gov/addendum-9-executive-order-01-20>.

⁷⁷ President Donald J. Trump Announces Guidelines for Opening Up America Again, (April 16,

- ~~4/24 - POTUS signs into law the Paycheck Protection Program and Health Care Enhancement Act, providing additional funding to support Americans impacted by the coronavirus.⁷⁸~~
- ~~4/26 - USNS Comfort reports all patients are discharged.⁷⁹~~
- ~~4/27 - POTUS announces blueprint for testing to help safely open America again.⁸⁰~~
- ~~4/30 - POTUS announces several new initiatives aimed at protecting America's seniors from COVID-19.⁸¹~~
- ~~5/8 - Bureau of Labor Statistics reports the U.S. jobless rate reached 14.7% in April, the highest level since the Great Depression. The White House noted that many of the job losses are due to temporary layoffs.⁸²~~
- ~~5/15 - Governor Scott signed Addendum 14, a Be Smart, Stay Safe order to extend the State of Emergency to June 15, 2020, and update previous emergency orders to reflect re-openings and eased restrictions.⁸³~~
- ~~5/20 - For the first time since states in the United States implemented stay-at-home measures to mitigate the spread of COVID-19, all 50 states have begun to partially lift restrictions.⁸⁴~~
- ~~5/30 - POTUS announces he plans a United States withdrawal from the World Health Organization and will redirect the nation's contribution funds to help meet global public health needs.⁸⁵~~
- ~~6/5 - POTUS signs into law the Paycheck Protection Flexibility Act of 2020, modifying provisions for loan forgiveness under the Paycheck Protection Program.⁸⁶~~
- ~~6/15 - Governor Scott announced that the COVID-19 State of Emergency had been extended to July 15, 2020. The order reflected re-openings as of June 15, 2020, and~~

2020),

<https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-announces-guidelines-opening-america/>.

⁷⁸ See footnote 12.

⁷⁹ See footnote 12.

⁸⁰ See footnote 12.

⁸¹ President Donald J. Trump Remains Committed to Caring for Our Nation's Seniors During the Coronavirus Pandemic and Beyond, (April 30, 2020), <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-remains-committed-caring-nations-seniors-coronavirus-pandemic-beyond/>.

⁸² See footnote 12.

⁸³ Addendum 14 to Executive Order 1-20 (May 15, 2020), <https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%2014%20TO%20EXECUTIVE%20ORDER%2001-20.pdf>.

⁸⁴ See footnote 12.

⁸⁵ See footnote 12.

⁸⁶ Bill Announcement, (June 5, 2020), <https://www.whitehouse.gov/briefings-statements/bill-announcement-98/>.

~~continued to ease restrictions in response to Vermont's low case counts and continued slow growth rate.⁸⁷~~

- ~~● 7/4 - POTUS signs into law a bill that reauthorizes lending under the Paycheck Protection Program through August 8, 2020, and separates the authorized limits for commitments under the program from other Small Business Administration loan programs.⁸⁸~~
- ~~● 7/15 - Governor Scott announced that the COVID-19 State of Emergency had been extended to August 15, 2020.⁸⁹~~
- ~~● 7/24 - Governor Scott signed an executive order requiring all Vermonters to wear a mask or cloth facial covering any time it is not possible to maintain a physical distance of at least six feet with others from outside their household.⁹⁰~~
- ~~● 7/31 - Governor Scott signed a directive setting September 8, 2020, as the universal reopening date for Vermont schools.⁹¹~~
- ~~● 8/6 - The USA State Department, in coordination with the CDC, lifts its Global Level 4 Health Advisory that had been in place since March 19 which advised USA citizens to avoid all international travel due to the global impact of COVID-19.⁹²~~
- ~~● 8/14 - Governor Scott announced that the COVID-19 State of Emergency had been extended to September 15, 2020, as well as additional local discretion for gathering size limits and liquor sales.⁹³~~
- ~~● 8/23 - The Food and Drug Administration has issued an emergency use authorization for convalescent plasma to treat COVID-19.⁹⁴~~
- ~~● 8/25 - POTUS announces additional steps, including new testing requirements, to help protect nursing home residents from COVID-19.⁹⁵~~

⁸⁷ Amended and Restated Executive Order 1-20, (Jun 15, 2020), <https://governor.vermont.gov/sites/scott/files/documents/Amended%20and%20Restated%20Executive%20Order%20No.%20001-20.pdf>.

⁸⁸ See footnote 12.

⁸⁹ Addendum 1 to Amended and Restated Executive Order 1-20, (Jul 15, 2020), <https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%201%20TO%20AMENDED%20AND%20RESTATED%20EXECUTIVE%20ORDER%20001-20.pdf>.

⁹⁰ Addendum 2 to Amended and Restated Executive Order 1-20, (Jul 24, 2020), <https://governor.vermont.gov/content/addendum-2-amended-and-restated-executive-order-no-01-20>.

⁹¹ Directive 6 - Uniform School Reopening (Pursuant To Executive Order 1-20), (Jul 30, 2020), <https://governor.vermont.gov/content/directive-no-6-uniform-school-reopening-pursuant-executive-order-01-20>.

⁹² Lifting of Global Level 4 Global Health Advisory, USA DEPARTMENT OF STATE, (Aug 6, 2020), <https://www.state.gov/lifting-of-global-level-4-global-health-advisory/>.

⁹³ Addendum 3 to Amended and Restated Executive Order 1-20, (Aug 14, 2020), <https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%203%20TO%20AMENDED%20AND%20RESTATED%20EXECUTIVE%20ORDER%20001-20.pdf>.

⁹⁴ Remarks by President Trump in Press Briefing, (Aug 23, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing-august-23-2020/>.

⁹⁵ See footnote 12.

- ~~9/11 - Governor Scott announced that the COVID-19 State of Emergency had been extended to October 15, 2020.⁹⁶~~
- ~~10/15 - Governor Scott announced that the COVID-19 State of Emergency had been extended to November 15, 2020.⁹⁷~~
- ~~10/16 - Governor Scott signed an executive order prohibiting skating rinks from accepting new reservations from October 16 at 5:00 p.m. through midnight on October 30, 2020, to prevent an influx of new users from high risk areas into Vermont's ice rinks.⁹⁸~~
- ~~5 people die directly after receiving free flu shot⁹⁹ attributed to incorrect handling of vaccines.~~
- ~~11/13 - Governor Scott implemented temporary restrictions on social gatherings and business operations, including prohibition of private multi-household social gatherings, limits on restaurant hours and seating, closure of bars and clubs, pause on recreational sports, reinstitution of telework requirements, and additional contact tracing and testing requirements.~~
- ~~11/20 - The Executive Order was updated to clarify allowable multi-household gatherings.¹⁰⁰~~
- ~~12/9 - CNN Doctor: Don't be 'alarmed' if elderly die after receiving Covid vaccine¹⁰¹~~
- ~~12/14 - BFP reports arrival of Vaccine and first person in Vermont receives vaccine; Levine asked if a person can be forced to take the vaccine: "As of now, no."¹⁰²~~
- ~~12/15 - Executive Order No. 06-20 commemorating the signing of the Declaration of Independence.¹⁰³~~
- ~~12/15 - Addendum 9 to Amended and Restated Executive Order No. 01-20¹⁰⁴~~

⁹⁶ Addendum 5 to Amended and Restated Executive Order 1-20, (Sep 11, 2020), <https://governor.vermont.gov/content/addendum-5-amended-and-restated-executive-order-01-20>.

⁹⁷ Addendum 6 to Amended and Restated Executive Order 1-20, (Oct 15, 2020), <https://governor.vermont.gov/content/addendum-6-amended-and-restated-executive-order-01-20>.

⁹⁸ Addendum 7 to Amended and Restated Executive Order 1-20, (Nov 16, 2020), <https://governor.vermont.gov/content/addendum-7-amended-and-restated-executive-order-01-20>.

⁹⁹ http://english.chosun.com/site/data/html_dir/2020/10/21/2020102101588.html

¹⁰⁰ Addendum 8 to Amended and Restated Executive Order 1-20, (Nov 20, 2020), <https://governor.vermont.gov/content/addendum-8-amended-and-restated-executive-order-01-20-0>.

¹⁰¹

<https://www.lifesitenews.com/news/doctor-on-cnn-dont-be-alarmed-if-elderly-die-after-receiving-covid-vaccine>

¹⁰²

<https://www.burlingtonfreepress.com/story/news/local/2020/12/14/vermont-covid-19-vaccine-distribution-plan-pfizer-vaccine-schedule/6542165002/>

¹⁰³ EXECUTIVE ORDER NO. 06-20 TUESDAY, DECEMBER 15, 2020 Creation of the Vermont 250th Anniversary Commission <https://governor.vermont.gov/content/executive-order-no-06-20>

¹⁰⁴ Addendum 9 to Amended and Restated Executive Order 1-20, (Dec 15, 2020) <https://governor.vermont.gov/content/addendum-9-amended-and-restated-executive-order-01-20>

~~What Happened to “Flattening the Curve”?~~

~~15: When COVID-19 was first detected in the USA there was a tremendous amount of discussion related to flattening the curve. We were told that there was a very real danger that our healthcare system would be overrun, and people could be dying in the streets.¹⁰⁵ Today, the focus is on the number of cases, which is unreliable due to testing methods, furthering the fear placed on citizens with zero justification. Because of this unprecedented danger, we were told that an emergency would be declared so that we could “flatten the curve” and that once it was flattened we could begin moving towards normalization.¹⁰⁶~~

~~Flattening the curve refers to the goal of slowing the rate of infections to a point that doesn't overwhelm local hospitals and health care providers. Defendant Scott stated in his Executive Order EO-01-20 (dated March 13th) that “if no mitigation steps are taken, COVID-19 would likely spread in Vermont at a rate similar to the rate of spread in other states and countries, **and the number of persons requiring medical care could exceed locally available resources.**” Also stated in this executive order, “we now know that while **most individuals affected by COVID-19 will experience mild flu-like symptoms**, some individuals, especially those who are elderly or already have severe underlying chronic health conditions will have more serious symptoms and require hospitalization.” We now know this is not true, as mandates such as masks, came on August 1, 2020, clearly after hospitalizations and deaths declined and the curve had been flattened. We made room at hospitals, stopped much needed surgeries for ill patients and laid off employees, none of which was needed. The curve was flattened in April, deaths stopped as they do in a flu season for~~

¹⁰⁵ Helen Branswell, Why ‘flattening the curve’ may be the world’s best bet to slow the coronavirus, STATNEWS.COM, (Mar. 11, 2020),

<https://www.statnews.com/2020/03/11/flattening-curve-coronavirus/>.

¹⁰⁶ “...with several weeks of focused action, we can turn the corner and turn it quickly,” said President Trump. Gideon Lichfield, We’re not going back to normal, MIT TECHNOLOGY REVIEW, (Mar. 17, 2020),

<https://www.technologyreview.com/2020/03/17/905264/coronavirus-pandemic-social-distancing-18-months/>.

~~the summer, yet Defendant Scott and the State of Vermont still continued the state of Emergency.~~

~~16: The curve was a reference to the CDC's graph (model) that predicted a tremendous surge in the need for hospitalization around the country due to COVID-19.¹⁰⁷ To deal with this potential crisis both the State of Vermont, other states around the country, and the federal government declared emergencies to allow for the bypass of laws and procedures that would have slowed their ability to create a mechanism to deal with this upcoming crisis. Personal Protective Equipment (PPE) and ventilators were inventoried, temporary hospitals were built to deal with overflow, and funding was approved.¹⁰⁸~~

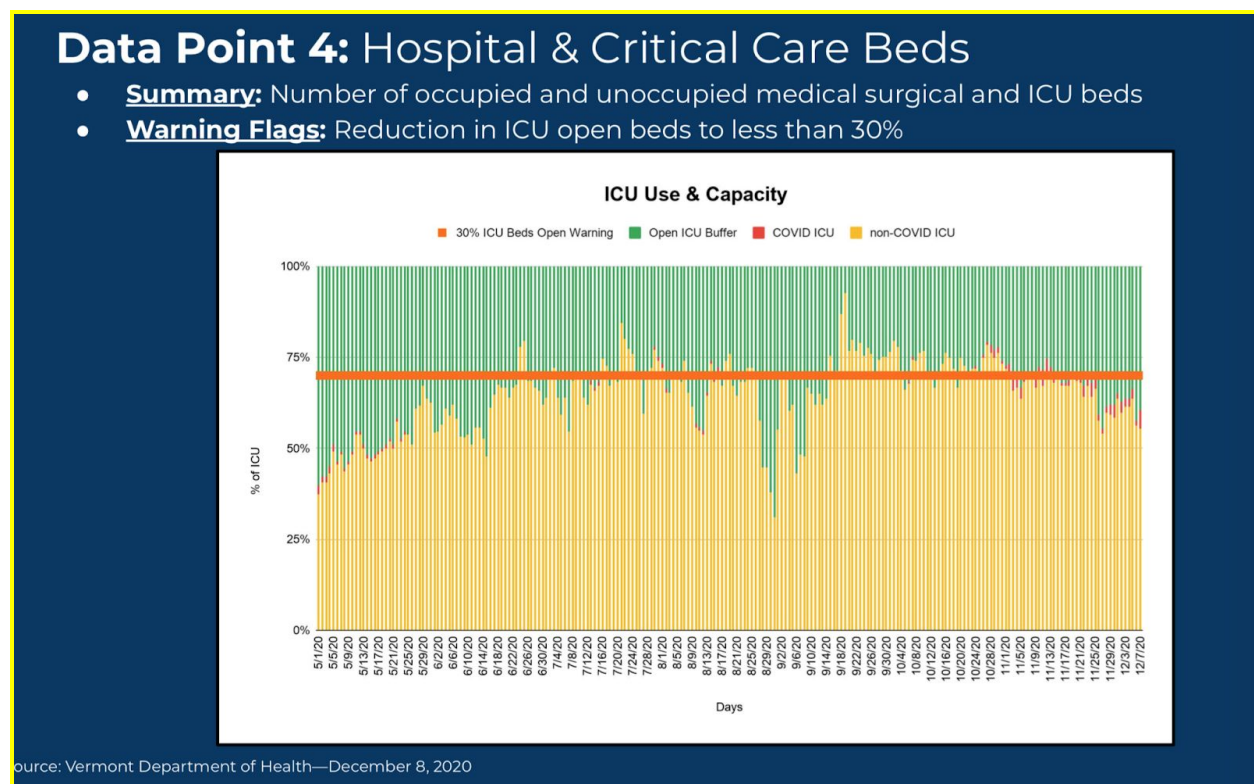
~~17: Despite the substantial political noise made, the dreaded curve never happened. The emergency supplies or hospitals were simply not needed and, to our knowledge, all of them have since been dismantled.¹⁰⁹ This begs the question, if the emergency was based on preventing our healthcare system from being unable to deal with the potential danger of COVID-19, why would this additional capacity be removed if there is still a need for an emergency? As of the most recent extension of the Emergency Orders, Addendum 9 on Dec 15, 2020, the Defendant Scott states: *"modeling studies done for the State clearly show that, but for the mitigation measures taken to date, the number of COVID-19 cases and COVID-19 related deaths in the State would be having a much more devastating effect on Vermonters and would be threatening to overwhelm the capacity of the Vermont health care system"*. Has Covid 19 overwhelmed our hospital system, or have hospital staff actually been laid off? In discovery and at trial, Plaintiffs will show otherwise. As of this writing, the most recent chart from Vermont Modelling on Dec 8, 2020 (released just one week prior to Executive Addendum 9) shows that there are plenty of intensive care unit (ICU) beds and Covid 19 demand for beds is minute. See chart below. The tiny red portions on top of the~~

¹⁰⁷ Caitlin O'Kane, "Flattening the curve": Why we need to cancel everything and stay home to help stop coronavirus, CBS NEWS, (Mar. 13, 2020), <https://www.cbsnews.com/news/flattening-the-curve-coronavirus-graph-social-distancing-self-quarantine-no-large-events-covid-19/>.

¹⁰⁸ Carrie Ghose, Covid-19 field hospital ready in Greater Columbus Convention Center, COLUMBUS BUSINESS FIRST, (Apr. 14, 2020), <https://www.bizjournals.com/columbus/news/2020/04/14/covid-19-field-hospital-ready-in-greater-columbus.html>.

¹⁰⁹ Convention Center hospital for COVID-19 overflow not needed, being dismantled, WCPO ABC 9, (May 4, 2020), [Convention Center hospital for COVID-19 overflow not needed, being dismantled.](#)

yellow indicate the covid demand on our hospital system as of December 8, 2020.



18: Another critical point to make regarding the curve is the fact that it was clearly stated, multiple times, while making the case for the emergency declaration, that COVID-19 could not be stopped. CDC and State “experts” said that we could flatten the curve but that the disease would continue to run through the population and that we simply would have to learn to live with it.¹¹⁰ Given this fact, we ask the following: If the curve has been flattened enough to take down temporary hospitals and we have no alternative but to live with it, then why is there still a need for an emergency? Given these facts, how could we possibly argue that the continuation of this emergency be considered anything but arbitrary—let alone act as justification for the limitation of fundamental rights subject to strict scrutiny (see below)?

Deaths and Manner of Counting

19: The reporting of deaths related to COVID-19 is so misleading that, as noted above, even the Supreme Court of the United States was misled. At the time of this writing it is being

¹¹⁰ See footnote 7 (Matrajt, et al).

~~claimed that there have been over 150,000 COVID-19 deaths in the United States.¹¹¹ That is simply untrue. While we hope to develop a more accurate number through the discovery process, the number of deaths primarily caused from COVID-19 is likely less than 50,000 and has been estimated in scientific studies to be closer to 20,000.¹¹²~~

~~20: This will seem like an incredible statement for anyone listening to the news. The key to understanding this statement is that the 150,000 number could be an accurate number of the people in the United States that have died with COVID-19 but instead has been presented as the number of people that have died from COVID-19.¹¹³~~

~~21: During the early stages of dealing with the COVID-19 “crisis” the CDC changed the rules for counting deaths.¹¹⁴ A full discussion of this is included in Attachment 2a-i. It should be noted that the changes allowed for unconfirmed cases of COVID-19 to be included in the death count contrary to both international standards and also in a way that is contrary to how every other diagnosed disease death has been counted in the USA since 2003. This approach was so egregious that, it can accurately be stated that:~~

- ~~†: In the interest of complete clarity, according to CDC guidance as discussed here, if a person has a cough and dies, and that person lives in any of a majority of the cities in the United States (nearly all of which have a sustained, ongoing community transmission of SARS-CoV-2) then COVID-19 can be listed as either the cause of death or as a significant condition contributing to death. That death certificate can then act as evidence of a probable case of COVID-19 and earn an additional~~

¹¹¹ Cases in the U.S., CENTERS FOR DISEASE CONTROL AND PREVENTION (Last visited Aug 27, 2020), <https://www.cdc.gov/coronavirus/2019.ncov/cases-updates/cases-in-us.html>

¹¹² H. Ealy, et al., If COVID Fatalities Were 90.2% Lower, How Would You Feel About Schools Reopening?, CHILDREN’S HEALTH DEFENSE (July 24, 2020), <https://childrenshealthdefense.org/news/if-covid-fatalities-were-90-2-lower-how-would-you-feel-about-schools-reopening>.

¹¹³ *Id* at 1

¹¹⁴ NVSS: National Vital Statistics System COVID-19 Alert No. 2., CENTERS FOR DISEASE CONTROL AND PREVENTION. (Mar 24, 2020), <https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-deaths.pdf>.

~~20% reimbursement rate from Medicare.¹¹⁵ as well as then be reported as a COVID-19 death.¹¹⁶~~

~~22. It is also critical to note the financial incentive to include deaths as COVID-19 deaths. In Vermont, according to Becker's Hospital Review, hospitals are being reimbursed an additional \$87,000 per COVID-19 case and a death from COVID-19 requires no lab test but does qualify as a case.¹¹⁷ From the Vermont Department of Health Vital Statistics System on 9/20/2020 here are a few official causes of death for the 36 additional individuals who did not test positive for COVID-19, yet were claimed, by Defendant, and press, who still report this number, to have passed from COVID-19. See Attachments 2a-i~~

- ~~● Pneumonia - 95yo - several passed from pneumonia~~
- ~~● Adult failure to thrive - 94yo~~
- ~~● Brain hemorrhage - 72yo~~
- ~~● Complete heart block - 91yo~~
- ~~● Loculated Pleural Effusion/heart failure - 87yo~~
- ~~● Diabetic Ketoacidosis - 43yo~~

~~23. All of this has led to very misleading results,¹¹⁸ with the entire count being thrown further off by epicenters for the disease, such as New York, putting the sick in nursing~~

¹¹⁵ CARES Act Sec. 3710

¹¹⁶ *Id* at 1

¹¹⁷ Ayla Ellison, State-by-state breakdown of federal aid per COVID-19 case, BECKER'S HOSPITAL CFO REPORT, (Apr. 14, 2020)

<https://www.beckershospitalreview.com/finance/state-by-state-breakdown-of-federal-aid-per-covid-19-case.html>

¹¹⁸ Governor DeSantis referenced a Florida motorcyclist who died in a crash. It was initially counted as a COVID death and actually argued that COVID caused the crash. 2 days after a FOX 35 investigation, health officials confirm that a motorcycle death that was initially counted among COVID-19 fatalities but has since been removed from the state's data.

INVESTIGATES: Questions raised after fatal motorcycle crash listed as COVID-19 death, FOX35 ORLANDO, (JULY 18, 2020),

<https://www.fox35orlando.com/news/fox-35-investigates-questions-raised-after-fatal-motorcycle-crash-listed-as-covid-19-death>

Andrew Mark Miller, Florida health official says man who died in motorcycle crash listed as coronavirus death, WASHINGTON EXAMINER, (July 17, 2020),

<https://www.washingtonexaminer.com/news/florida-health-official-admits-man-who-died-in-motorcycle-crash-listed-as-coronavirus-death>

homes with others that are most at risk.¹¹⁹ It is vital to recognize that, according to the Journal of the American Geriatric Society, the median life expectancy in a nursing home is 5 months.

24: Since the validity of the covid test has come to light as entirely repudiated, the rise in Vermont deaths that we are currently experiencing in December 2020 may instead include normal average numbers of deaths that are associated with flu season's return. A normal flu season in Vermont has 87 deaths on average, and when numbers of COVID-19 deaths are falsely listed as covid, but actually of brain hemorrhage or sepsis, pneumonia or the regular flu, the rise in deaths in the fall is nothing out of the ordinary. What we can say is that the death counts related to COVID-19 are misleading at best. And that all told, we are having a normal flu season. The numbers do not add up to an emergency. If cases are a positive PCR test, then therefore case numbers are baseless, therefore the deaths are also mislabelled and incorrectly attributed to COVID-19.

25: The following facts refute that COVID-19 deaths are undercounted. 1) An \$87,000.00 Vermont "bonus" was paid out per case (the amount varying per state). 2) A COVID-19 case or death can be diagnosed under CDC guidelines if an individual has nothing more than a cough and lives in a high infection part of the nation.

26: Excess deaths are calculated based on an estimate of how many people are expected to die during any given time period.¹²⁰ No one can predict how many people will die at any given time. According to the CDC, as of August 21, 2020, the total number of COVID deaths involving COVID-19 (which includes all deaths where COVID-19 was present even when it was not the cause of death — *see above*) was 159,865. The total number of deaths from all causes was 1,737,141 and the percent of expected deaths was 111%. Basic math tells us the following:

¹¹⁹ Joe Ruiz, Cuomo says New York followed federal guidelines when sending coronavirus patients to nursing homes, CNN, (May 23, 2020), <https://www.cnn.com/2020/05/23/politics/cuomo-new-york-nursing-homes-coronavirus-patients/index.html>

¹²⁰ According to the CDC this number is simply an average based on the same time period from the years 2017-2019. Daily Updates of Totals by Week and State, Table 1, Note 2., CENTERS FOR DISEASE CONTROL AND PREVENTION (Last visited Aug 29, 2020), https://www.cdc.gov/nchs/nvss/vsrr/COVID19/?fbclid=IwAR1bGRFVVkvPepVwEixo01c7sgg1a52wH-aenp_VxrEKwGPKTNYlgh-GNTA

- If 1,737,141 is 111% of expected deaths, then the total expected deaths would be 1,564,991.891891
- This would mean that there are approximately 172,150 excess deaths as of August 21, 2020
- The difference between the expected deaths and deaths that have occurred is the basis for the argument that there is undercounting.

27. We have demonstrated that the number of deaths from COVID-19 is nowhere near the number presented by the CDC, so how can we be experiencing so many excess deaths if they are not coming from COVID-19? The answer is beyond disturbing and is answered in the next section. For more information see attachments 2a-h

~~The Impact of Our Reaction to COVID-19~~

28. The answer to the excess deaths question is the same as the answer to why this case is so critical. In both instances the answer is that the damage being done by the response to COVID-19, whether to our rights, or the welfare of the general public, is beyond count. Attached in Attachment F is a brief overview of some of the issues that have occurred due to the COVID-19 response. The following synopsis of **Attachment 3 a-d** clearly demonstrates that the true danger to Vermonters and the American public stems not from COVID-19, but from the public health nightmare caused by the response to it:

~~1. Impact on Hospitals & Patient Care~~

- a. —— Loss of revenue due to shutdowns has closed a number of healthcare facilities and/or caused a number of hospital systems to consider further closures. This is not only arbitrary, but counterproductive to ensuring the legal duty of protecting that our freedoms are fulfilled when a pandemic is occurring.
- b. —— Substantial evidence that patients are avoiding treatments that could prevent more severe conditions is accumulating. This has and will result in excess deaths because people fear getting the treatment they need.

c. ——— As the lockdown has continued, we are now seeing a surge in non-COVID patients and deaths (as would be expected given Points A and B). There were also reports of suicide hotlines seeing calls increase as much as 600% after the lockdown and one article references 600 physicians calling the lockdown a “mass casualty event”.

~~2. Impact on Health~~

- a. ——— Lower levels of physical and mental health as well as weaker immune systems and other issues due to mandatory mask wearing, the lockdown, isolation and social distancing.
- b. ——— Substantial negative impacts on the wellbeing of mothers and children due to reductions in routine health services. It is estimated that the result will be a substantial increase in the number of maternal and child deaths.
- c. ——— Mask mouth (referring to dental problems resulting from wearing a mask) has the potential to be very dangerous. Some dentists are already reporting issues as high as 50% of their patients.
- d. ——— Mental health is seeing a tremendous decline with depression, anxiety, and other impacts. Many of these seem to be particularly serious in children.

~~3. Impact on Substance Abuse, Violence, & Deaths of Despair~~

- a. ——— There has been a substantial spike in domestic violence.
- b. ——— Drug and alcohol usage has spiked and overdose deaths have surged to record levels. Addiction will increase resulting creating a long-term impact.
- c. ——— Suicide rates have increased dramatically — particularly in younger people. California doctors have seen “a year’s worth of suicides” in 4 weeks and many more deaths from suicide than COVID-19. CDC Director Robert Redfield stated

“But there has been another cost that we’ve seen, particularly in high schools... We’re seeing, sadly, far greater suicides now than we are deaths from COVID. We’re seeing far greater deaths from drug overdoses that are

~~above excess that we had as background than we are seeing the deaths from COVID.²²~~

~~d. — Even motor vehicle fatalities have spiked by 23.5% in May due to reductions in enforcement and the assumption that empty roads mean there is no need to follow a speed limit.~~

~~e. — One study estimated that there will be 75,000 additional “deaths of despair” due to the response to COVID-19. Others, including the Cleveland Clinic, have seen dramatic increases in “broken-heart syndrome” due to the response.~~

~~4. Impacts on Human Trafficking~~

~~a. — There was an estimated 40% increase in human trafficking during the statewide house arrest orders (also known as shelter-in-place orders).~~

~~b. — This has likely occurred because an estimated 75% of humanitarian operations worldwide stopped due to the COVID-19 response.~~

~~5. Impacts on Children~~

~~a. — The economic impact on many families is likely to result in malnutrition for children.~~

~~b. — In families that are food secure, many other children will be at risk for obesity as they are isolated and given fewer options for activity.~~

~~c. — One study estimated that if actions continue there could be an additional 1.2 million child deaths and 56,700 maternal deaths around the world.~~

~~6. Impacts on the Economy~~

~~a. — The economic shock brought on by the reaction to COVID-19 is greater than the 2008-2009 meltdown and likely more similar to the Great Depression.~~

~~b. — Over 45 million Americans filed jobless claims as a result of the COVID-19 reaction.~~

~~c. — Housing insecurity is at a crisis level with an estimated 50+ million renters living in households that have suffered job or income loss.~~

d. ~~Foreclosures and evictions will be at an all time high, comparable to the real estate crash of 2009-10, causing more families to be homeless.~~

7. ~~Policies Related to Nursing Homes (see Attachment 2g)~~

a. ~~More than 40% of US COVID-19 cases have been linked to nursing homes.~~

b. ~~Nursing homes house the highest-risk population in regard to COVID-19 (elderly people with comorbidities).~~

c. ~~States such as New York implemented policies that placed or allowed people with COVID-19 to be in nursing homes.~~

d. ~~The total deaths resulting from these policies is not yet known but it will undoubtedly be well over 10,000.~~

29: ~~In short, the plaintiffs do not doubt that there are substantial numbers of excess deaths occurring in the United States; in fact, we submit that the number will continue to increase. These increases, however, are not due to COVID-19, rather they are due to the unconstitutional abridgement of our freedoms that has occurred and the inability of a state and nation to adapt to the foundational freedoms we have grown to rely on being shattered.~~

30: ~~Defendant Levine's claim¹²¹ that it is because of Vermont's diligence and adherence to the guidelines that the state has had reduced covid deaths, but there is no evidence to that effect, other than private modelling. Hundreds if not thousands of doctors show that the masks, social distancing and quarantines have not stopped the spread of any virus, alleged or not. It could very well be that Vermont, which often enjoys good outcomes in a national picture during flu seasons, is experiencing another average flu season wherein deaths are instead being named Covid 19 and monetized, and the Vermont public this year has been hammered continuously and mercilessly into trembling fear and strict obedience of illegal orders and protocols by the Defendants.~~

31: ~~A note on the impacts of the reaction to COVID-19—the Plaintiffs recognize that the Court's role is not to determine policy and do not ask it to do so. That said, the fact that the policy is causing greater harm than the disease, clearly demonstrates that the policy is~~

¹²¹<https://www.burlingtonfreepress.com/story/news/2020/07/17/vermont-goes-30-days-no-covid-19-deaths/5432416002/>

arbitrary. The State cannot claim it is declaring an emergency to save life and then take actions to harm it. Arbitrarily taking actions such as this, is not Constitutional when it infringes on our rights (which we discuss below):

32: In an extraordinary show of solidarity, expert members of public health policy and medical professions came together behind a declaration known as the Great Barrington Declaration. The Great Barrington Declaration¹²² authored by Sunetra Gupta of the University of Oxford, Jay Bhattacharya of Stanford University, and Martin Kulldorff of Harvard University wherein they state;

“Those who are not vulnerable should immediately be allowed to resume life as normal. Simple hygiene measures, such as hand washing and staying home when sick should be practiced by everyone to reduce the herd immunity threshold. Schools and universities should be open for in-person teaching. Extracurricular activities, such as sports, should be resumed. Young low-risk adults should work normally, rather than from home. Restaurants and other businesses should open. Arts, music, sport and other cultural activities should resume. People who are more at risk may participate if they wish,”²²⁺²³
See attachment 3b.

33: Drs. Gupta, Bhattacharya and Kulldorff are Public Health policy experts joined in their opinion by 12,115 medical & public health scientists and 35,238 medical practitioners, a number that continues to grow. Collectively their medical expertise far outweighs that of the Vermont Health Department, it is stunning that Defendant Levine and the Vermont Health Department, has not heeded, nor publicly discussed it’s merits. A closer look at their credentials:

- —Dr. Martin Kulldorff, professor of medicine at Harvard University, a biostatistician, and epidemiologist with expertise in detecting and monitoring infectious disease outbreaks and vaccine safety evaluations.
- —Dr. Sunetra Gupta, professor at Oxford University, an epidemiologist with expertise in immunology, vaccine development, and mathematical modeling of infectious diseases.

¹²² The Great Barrington Declaration, <https://gbdeclaration.org/>

¹²³ *Id*

- ~~Dr. Jay Bhattacharya~~, professor at Stanford University Medical School, a physician, epidemiologist, health economist, and public health policy expert focusing on infectious diseases and vulnerable populations.

34: ~~The continuation of the state of emergency and increased restrictions into the 2020 holidays based on the rising number of Covid19 cases is baseless, resulting in unnecessary emotional and economic harm to the Plaintiffs and all of Vermont.~~¹²⁴

~~More Quotes from the Great Barrington Declaration petition:~~

- ~~“As infectious disease epidemiologists and public health scientists, we have grave concerns about the damaging physical and mental health impacts of the prevailing COVID-19 policies, and recommend an approach we call Focused Protection.”~~
- ~~“Current lockdown policies are producing devastating effects on short and long-term public health.”~~

35: ~~Quarantining¹²⁵ does not work as proven by the Army in a study carried out under the most strict protocols and published in the prodigious New England Journal of Medicine. Despite the strictest of protocols, undergone by marines, the lockdown and masking did not prevent the spread of Covid 19:~~

36: ~~The American Institute for Economic Research, “AIER has long highlighted studies that show no gain in virus management from lockdowns. Even as early as April, a major data scientist said that this virus becomes endemic in 70 days after the first round of infection, regardless of policies.”~~¹²⁶

37: ~~Dr. David Nabarra from the WHO appealed to world leaders, telling them to stop “using lockdowns as your primary control method” of the coronavirus. He also claimed that the only thing lockdowns achieved was poverty – with no mention of the potential lives saved. “Lockdowns just have one consequence that you must never ever belittle, and that is making poor people an awful lot poorer,” he said. “Look what’s happened to smallholder farmers all over the world. ... Look what’s happening to poverty levels. It seems that we may well have a~~

¹²⁴See Attachment 3c Plaintiffs’ FOIA request of the VHD

¹²⁵ <https://www.aier.org/article/even-a-military-enforced-quarantine-cant-stop-the-virus-study-reveals/>

¹²⁶ <https://www.aier.org/article/even-a-military-enforced-quarantine-cant-stop-the-virus-study-reveals/>

doubling of world poverty by next year. We may well have at least a doubling of child malnutrition.¹²⁷¹²⁷

38: Defendant Scott declared that Vermonters were not to gather together as families and friends for Thanksgiving with members from multiple households as per the danger of rising cases (see cases and testing). Yet on black friday, Vermonters were permitted in stores to conduct shopping with hundreds of shoppers in close quarters. Recreational facilities were open Thanksgiving morning and one hosted a fundraising spin class where Vermonters were packed together huffing, puffing and sweating up a storm. People were allowed to travel to far away places, such as Maui, Hawaii, and spend 16 hours together in the same airspace and not 6 feet apart on packed airplanes. The absurdity of the notion that families could not spend a holiday meal together had children questioning the “science and logic of it all” and we, the Plaintiffs, do as well.

39: Defendant Scott directed schools to pressure children to snitch on their parents should they disobey his orders. Is Defendant Scott aware of the comparison of this action to Hitler’s Youth of the 1930s? Hitler issued a similar directive for children to rat on their parents in Germany before WWII began. Some schools recognized this and refused to comply, others participated in Defendant Scott’s destruction of family peace. It’s hard to verbalize the horror a growing number of Vermonters experience as they realize Defendant Scott’s actions are not bound by reason.¹²⁸ Plaintiffs will demonstrate in discovery and at trial, what is underlying this hypocrisy.

See Attachment 3 a-d for corroborating materials.

Definitions

Covid 19:	A disease caused by an (alleged) virus known as Sars Cov2.
Sars Cov2:	(Alleged) virus that (allegedly) causes a disease known as Covid 19.
DNA:	DNA encodes all genetic information, and is the blueprint from which

¹²⁷ <https://nypost.com/2020/10/11/who-warns-against-covid-19-lockdowns-due-to-economic-damage/>

¹²⁸ A Vermont vlogger, Claudia Stauber, reacts to Scott’s kids to snitch on parents plan <https://youtu.be/9OVUnzJJACc>

all biological life is created. And that's only in the short-term. In the long-term, ~~DNA is a storage device, a biological flash drive that allows the blueprint of life to be passed between generations.~~

RNA: ~~RNA functions as the reader that decodes this flash drive. This reading process is multi-step and there are specialized RNAs for each of these steps.~~

PCR test: ~~PCR stands for a laboratory technique known as Polymerase Chain Reaction. In this test, the goal is to selectively amplify trace amounts of genetic material, identifying specific parts of DNA.~~

mRNA: ~~Novel messenger RNA or mRNA uses genetic material to cause the body to create a protein from the virus. The immune system then recognizes the virus and attacks it. Pfizer and Moderna's vaccines use novel messenger mRNA. This would be the first mRNA product to be approved by the FDA~~

Koch's postulates: ~~Robert Koch's postulates, published in 1890, are a set of criteria that establish whether a particular organism is the cause of a particular disease. Today, Koch's postulates are the 'gold standard' demonstration of the rigor and legitimacy of clinical microbiology.~~

Mask: ~~A medical device worn to cover over the mouth and nose.~~

Quarantine: ~~The separation of a person or group of people reasonably believed to have been exposed to a communicable disease but not yet symptomatic, from others who have not been so exposed, to prevent the possible spread of the communicable disease.~~

Vaccine: A product that stimulates a person's immune system to produce immunity to a specific disease, protecting the person from that disease. Vaccines are usually administered through needle injections, but can also be administered by mouth or sprayed into the nose.

Testing: is the PCR test valid?

40: The Plaintiffs begin this section by repeating the statement above with a few variations: According to CDC guidance and similarly to Vermont Department of Health guidance, if a person has a cough whether they die or not, and that person lives in any of a majority of the cities in the United States (many of which have a sustained, ongoing community transmission of SARS-CoV-2) then they can be counted as a COVID-19 case.¹²⁹ As noted above, according to Becker's Hospital Review this results in a payment of \$87,000 for each COVID diagnosis to the relevant hospital in Vermont.

<https://vtdigger.org/2020/06/12/live-updates-racial-justice-demonstrations-continue-into-third-weekend/>

41: Naturally, there are other methods of determining whether a patient has COVID-19 and laboratory testing is among them. The problem with laboratory testing is that the tests are unreliable, and as now being revealed, completely misleading.

42: At this point, over 100 companies are manufacturing COVID-19 tests with approval from the FDA under emergency use authorization (EUA)¹³⁰. This means that these tests are not validated using the typical, rigorous, scientific methods. These tests are also being created with no defined standard from any centralized source (like the CDC or FDA) for what it means to "have" COVID-19.¹³¹ This basically means that what qualifies as a "case" (i.e.

¹²⁹*Id at 1*

¹³⁰ Pride D. "Hundreds of different coronavirus tests are being used – which is best?", THE CONVERSATION, (Apr 4 2020)

¹³¹ See Attachment 4a-g

positive result) of COVID-19 in a test from one manufacturer may not qualify as a case in a test from another.

43. There are two main approaches to testing, a Polymerase Chain Reaction (“PCR”) test and an antibody test. The antibody test can determine if a person has been exposed but not whether they are infected and so should not be used to test for existing infections.¹³² Further, the antibody testing can mistake antibodies from diseases such as the common cold for COVID-19 and so their accuracy is poor at best.¹³³

44. The PCR tests are generally viewed as the ‘gold standard’ means of determining if a patient has COVID-19. The problem is that the inventor of the PCR test, who won a Nobel Prize in chemistry for the invention, specifically stated that the test was not well-suited to and never designed to diagnose disease. In August 2019 when Bill Gates was preparing to host the pandemic simulation event 201, Kary Mullis died, so we do not have his opinion about the use of the PCR test for Sars Cov2. However we do know he opposed the use of the PCR test for HIV diagnosis, he said in 2005:

*—“and I was starting to talk about AIDS ... because they were using PCR to detect it, the HIV molecule, and I was going to a lot of those meetings and I was thinking these guys are on the wrong track and they’ve got blinders on them in a sense”*¹³⁴

45. Mullis, A brilliant, nobel prize winning scientist, had this to say about Fauci¹³⁵:

“What is it about humanity that that it wants to go to all the details and stuff and guys like Fauci get up there and start talking and he doesn’t know anything about anything, and I’d say that to his face. Nothing! The man thinks you can take a blood sample and stick into a electron microscope and if it’s got a virus in there you will know it. He doesn’t understand electron microscopy and he doesn’t

¹³² See Attachment 4b

¹³³ Amanda Morris, People look to COVID-19 antibody testing for answers, but no test offers guarantees, (Apr 27, 2020), <https://www.azcentral.com/story/news/local/arizona-health/2020/04/27/questions-linger-covid-19-antibody-tests-even-demand-grows/5170052002/>

¹³⁴ <https://www.nobelprize.org/prizes/chemistry/1993/mullis/25900-interview-transcript-1993/>

¹³⁵ <https://youtu.be/5aISPITLbJo>

~~understand medicine and he should not be in a position like he is in. Most of those guys up there on the top are just total administrative people and they don't know anything about what's going on on the bottom. Those guys have got an agenda which is not what we would like them to have, being that we pay them to take care of our health in some way. They've got a personal kind of agenda. They make up their own rules as they go. They change them when they want to. And they smuggly, like Tony Fauci, does not mind going on television in front of the people who pay his salary and lie directly into the camera. You can't expect the sheep to really respect the best and the brightest. They don't know the difference. I mean I like humans, don't get me wrong but basically there is a vast, vast majority of them do not possess the ability to judge who is and who isn't a really good scientist. That is a main problem with science in this century because science is being judged by people who don't understand. Who do we trust? Fauci?~~

~~Exposure to the existence of incomplete traces of a virus does not mean a person is infected with a disease, which is part of the reason the PCR tests have an elevated rate of false positives:~~

46. ~~Currently, the entire premise of the pandemic rests on results of the PCR test. The PCR test was presented through a paper written by Corman and Drosten, but certain irregularities are now coming to light: “According to BBC News [4] and Google Statistics [5] there were 6 deaths world-wide on January 21st 2020—the day when the manuscript was submitted. Why did the authors assume a challenge for public health laboratories while there was no substantial evidence at that time to indicate that the outbreak was more widespread than initially thought?” The paper was submitted and supposedly reviewed in a record 24 hours, a time frame unheard of in medical journals. What was the rush? Do the authors have a conflict of interest?~~¹³⁶

47. ~~Review of the Corman-Drosten paper upon which the world embraced the PCR test~~¹³⁷
~~shows: “There are ten fatal problems with the Corman-Drosten paper... The first and major issue is that the novel Coronavirus SARS-CoV-2..... is based on in silico (theoretical) sequences, supplied by a laboratory in China [1], because at the time neither control material~~

¹³⁶ <https://cormandrostenreview.com> See Attachment 4a

¹³⁷ *ibid*

of infectious (“live”) or inactivated SARS-CoV-2 nor isolated genomic RNA of the virus was available to the authors. To date no validation has been performed by the authorship based on isolated SARS-CoV-2 viruses or full length RNA thereof.” According to Corman et al.: *“We aimed to develop and deploy robust diagnostic methodology for use in public health laboratory settings without having virus material available.”*

48. If the virus has never been able to be isolated, as we now know, can it be said to actually exist? Is the PCR test hunting for a ghost virus that does not exist in reality? The answer appears to be yes. Could this be why so many cold and flu symptoms work to define it? Could this be why rising cases as established by the PCR test or the Antigen test cannot be the basis of any state of emergency?

49. Taking just 2 of the 10 fatal flaws as described by a the Corman-Drosten peer review¹³⁸ that should have happened in January 2020, the layperson can readily see the test should never ever have become the basis of emergency orders lasting for 9 months:

1. The test cannot discriminate between the whole virus and viral fragments. Therefore, the test cannot be used as a diagnostic for intact (infectious) viruses, making the test unsuitable as a specific diagnostic tool to identify the SARS-CoV-2 virus and make inferences about the presence of an infection:

And

2. The PCR test contains neither a unique positive control to evaluate its specificity for SARS-CoV-2 nor a negative control to exclude the presence of other coronaviruses, making the test unsuitable as a specific diagnostic tool to identify the SARS-CoV-2 virus.

50. Koch’s Postulates: 1. In order for a germ to cause disease, the germ has to be found in every case of the disease. 2. in order for a germ to cause disease, it can never be found apart from the disease. 3. In order for a germ to cause disease, it must be capable of disease culture outside the body. 4. In order for a germ to cause disease, it must be capable of producing by injection the same disease as that undergone by the body from which it was taken (the basis of vaccines).¹³⁹ The virus must now be alleged, since the Koch Standard cannot be met. In other

¹³⁸ibid

¹³⁹ Goodbye Germ Theory by Dr. William F Trebing Page 157

~~words, the virus cannot be identified, isolated, removed from one body and placed in another resulting in infection. Why then, does Defendant Levine continue his advice to expand PCR tests for more and more Vermonters, and continue to advocate for a continued state of emergency on its basis? Doing so is evidence of medical fraud. Defendant Levine has access to all the same medical expertise the Plaintiffs do, what could be the reason that he continues to direct Defendant Scott to lockdown, isolate and hypoxicate the people of Vermont on the pretence of health and wellbeing?~~

51. ~~Despite the unsuitability of the tests to test a virus that has not been located, the State has gone to great lengths to argue recently that the number of cases of COVID-19 in Vermont are increasing. Given the prior discussion in this section, that statement is meaningless, but we will point out a fact that demonstrates the intentionally misleading nature of the State's position:~~

52. ~~According to recent data from the Vermont COVID-19 Dashboard, we can see that the "spike" in cases is actually just a spike in testing. The State went from a few thousand tests per day to 601,628 total tests, enough to test every man, woman and child in the state of Vermont twice over. The positivity rate for COVID-19 has remained fairly steady but there have been more tests:~~

53. ~~Many successive tests which are positive for the same person may be counted as "cases". Since **December 2, 2020 COVID-19 Case Data Update**¹⁴⁰ states The number of COVID-19 cases in Vermont now includes probable cases that have been reported to the Health Department since September 6, 2020. If we recall that each 'case' is a \$87,000 windfall, the overall monetary reward is roughly half a trillion dollars. This can be easily interpreted as to why the Defendants have not reversed course:~~

54. ~~When the Emergency was declared we heard a daily drumbeat about the danger and deaths related to COVID-19. We also heard that it was our personal duty to protect the vulnerable by sacrificing oxygen, small businesses, childrens' education's, never singing together, praying together, even surrendering our unalienable right to meet with the community and eliminate hugs from family and friends. Now that the case fatality rate has been shown to be roughly the same as the yearly flu (see below) those numbers are simply not scary to the~~

¹⁴⁰ <https://www.healthvermont.gov/covid-19/current-activity/vermont-dashboard>

public. So, we've gone from the need to "flatten the curve", "stay home, stay safe", fatality numbers, "people are dying" to a complete course change as those red flags didn't fly, to a massive increase in testing allowing the fear narrative to continue.

55: It's December 2020, and flu season once again, and a normal number of people are passing-only now, the flu is being called Sars Cov 2, rather than the flu, according to the State of Vermont. Amazingly, no one has the flu in fall 2020!¹⁴¹ No one is dying of the flu, it's a miracle!

Reported Outbreaks

Institutional outbreaks of flu or influenza-like illness (excluding respiratory illnesses not caused by influenza viruses, e.g. COVID-19) are reportable to the Health Department.

Number of Influenza-like Illness and Influenza Lab Confirmed Outbreaks, 11/29/20 – 12/5/20



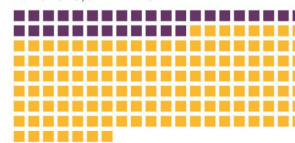
Facility Type	# of Outbreaks	Full Season
	11/29/20-12/25/20	9/27/20-12/5/20
Long-term Care Facility	0	0
School/University	0	0
Childcare Center	0	0
Other	0	0

For more information: Hilary Fannin hilary.fannin@vermont.gov

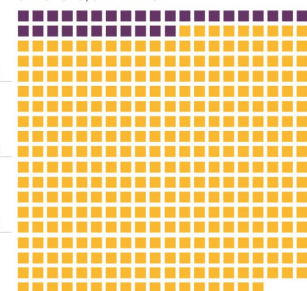
108 Cherry Street, Burlington, VT 05401 · 802-863-7200 · www.healthvermont.gov

COVID-19 Cases and Deaths in Vermont Long-Term Care Facilities

First Wave: March to June
167 CASES; 32 DEATHS



Second Wave (ongoing): October to present
377 CASES; 31 DEATHS



Note: As of December 15, 2020. Only includes cases and deaths in facilities where the Vermont Department of Health has identified an outbreak.
Source: Vermont Department of Health | Chart: Andrea Suozzo/Seven Days

See Attachments 4a-f for corroborating materials.

Manipulation—the Psychological Approach to State/National Public Manipulation

56: Plaintiffs begin this section with the titles of some well-known studies that are valuable in understanding the communication approaches being taken by the CDC and Vermont officials:

- A meta-analysis of fear appeals: implications for effective public health campaign
Predicting Public Support for Government Actions in a Public Health Crisis: Testing

¹⁴¹ <https://www.healthvermont.gov/immunizations-infectious-disease/influenza/flu-activity-and-surveillance>

~~Fear, Organization-Public Relationship, and Behavioral Intention in the Framework of the Situational Theory of Problem Solving¹⁴²~~

- ~~● The fear of COVID-19 and its role in preventive behaviors¹⁴³~~
- ~~● How Fear Appeal Approaches in COVID-19 Health Communication May Be Harming the Global Community~~

~~57: The idea of using fear to manipulate the public is not new and is quite commonly used in public health. The underlying idea of each of the first three articles cited above can be summed up in a quote from the fourth article which states:~~

~~1. “... behavior change can result by increasing people’s perceived severity and perceived susceptibility of a health issue through heightened risk appraisal coupled by raising their self-efficacy and response-efficacy about a behavioral solution. In this model, fear is used as the trigger to increase perceived susceptibility and severity.”²²¹⁴⁴~~

~~58: It is interesting to note that this article was specifically published to make the point that the use/continued use of fear appeals in response to COVID-19 was against the recommendation of the authors. The reason for the article stems from the well-known fact that fear based appeals are being used to manipulate the public and have been the core justification for 9 months of incredibly unlawful behavior by states such as Vermont. Bearing in mind that after 9 months, COVID-19 has not even resulted in 89 deaths in Vermont (even with the highly incentivized miscounting that is occurring), here are some relevant quotes:~~

¹⁴² MG Chon, et al., Predicting Public Support for Government Actions in a Public Health Crisis: Testing Fear, Organization-Public Relationship, and Behavioral Intention in the Framework of the Situational Theory of Problem Solving, HEALTH COMMUNICATION, (Dec 9, 2019), <https://doi.org/10.1080/10410236.2019.1700439>

¹⁴³ A.H. Pakpour, et al., The fear of COVID-19 and its role in preventive behaviors, JOURNAL OF CONCURRENT DISORDERS. (Apr 3, 2020), <https://concurrentdisorders.ca/2020/04/03/the-fear-of-covid-19-and-its-role-in-preventive-behaviors/><https://concurrentdisorders.ca/2020/04/03/the-fear-of-covid-19-and-its-role-in-preventive-behaviors/>

¹⁴⁴ JA Stolow, et al., How Fear Appeal Approaches in COVID-19 Health Communication May Be Harming the Global Community, HEALTH EDUCATION AND BEHAVIOR (June 11, 2020), <https://doi.org/10.1177/1090198120935073>

Facebook and Twitter posts by Defendants

- ~~March 18 - Scott FB post - “Call your healthcare provider by phone if you have COVID-19 symptoms to see if you need to be evaluated. Only go to the hospital for a life-threatening emergency. Please do not call the Health Department - we cannot provide medical care or arrange for testing. Thanks for helping protect us all.” (The irony of this message is completely inconsistent with how to deal with a deadly, life-threatening virus)~~



- ~~April 3- Scott FB post - “I want to make clear - wearing a mask is NOT a substitute for staying home and it is NOT an excuse to mingle with others. Please continue to follow the measures we’ve put in place, even if you’re wearing a mask. Social distancing and washing your hands continue to be the most effective tools we have to reduce spread, and make sure we don’t overwhelm our hospitals.” -If the masks work, then why the need to stay home? And why after flattening the curve in April, did a mask mandate arrive in August? Are masks helpful to create an atmosphere of fear?~~
- ~~2:55 PM - Apr 30, 2020 -¹⁴⁵Twitter Scott: “We have a strong and effective testing and contact tracing program in Vermont, but as we work to keep Vermonters healthy, and slowly and safely restart our economy, doing even more is critical. With our expansion plan, we’ll be able to~~

¹⁴⁵ <https://twitter.com/GovPhilScott/status/1255933806068011014>

~~triple the amount of tests we do per week.” More tests at 37 cycles, more false positives. When the vaccine arrives, drop the cycles, and presto, the vaccines work.~~

- ~~May 15 Scott FB post - “Vermont will receive over \$55 million from the federal government to support COVID-19 testing, including \$3.9 million in funding specifically to support testing at community health centers throughout the state. We’re grateful for the efforts of Senator Patrick Leahy, Senator Bernie Sanders and Congressman Peter Welch to secure this critical funding to support our testing and tracing program.” As we methodically restart Vermont’s economy, enhanced testing and tracing is key.” Why is enhanced testing and tracing the key? Why isn’t increased use of Vitamin D, C and Zinc, happiness, and loved ones the key to staying healthy? The goal was to flatten the curve, which we did.~~
~~-Fear of cases and fear of people without symptoms has been repeated over and over by Defendants.~~
- ~~2:31 PM Jun 9, 2020¹⁴⁶ Twitter Scott: “Expanded testing and enhanced contact tracing efforts are critical to our cautious and methodical reopening strategy. It means, as we discover cases, our great team at @healthvermont can work to box them in, so we don’t have to take the same extreme measures we did early on.” What would the data show if all testing stopped?~~
- ~~June 24 Scott FB post - “Wearing a mask to protect others shows strength, not weakness. Please continue to follow guidance from the Department of Health to help slow the spread. We’re still fighting this pandemic, and it takes all of us working together and caring for one another.”. This message is repeated regularly leading up to the August 1st mandate. It created a destruction of bonds between families and friends as they fought about the correctness of Defendant’s orders, and the obvious holes and harms in it. Using mixed messages, multiple confusing~~

¹⁴⁶ <https://twitter.com/GovPhilScott/status/1270423401153339405>

addendums, restated orders and directives, Defendants kept everything a moving target that could never be attained:

- ~~12:00 PM Jul 10, 2020 — Phil Scott #FreePressFriday¹⁴⁷ “We’re fortunate to live in a country where free speech and the freedom of the press are constitutional rights, not privileges given to us by any one person or any government. It’s a fundamental part of who we are as Americans.” It is undeniable that extreme censorship is happening statewide, nationwide, and worldwide.~~
- ~~2:46 PM Jul 25, 2020 Scott Twitter¹⁴⁸ -” **Actually, effective next week, it is the law.** I get it, you don’t want to wear a mask, but wearing one is a sign of strength. And if everyone did, we’d get back to normal quicker. Wearing a mask will keep your friends and family safer. The science is clear... do the right thing.” **Defendant Scott states he has made law, in contravention of Constitutional separation of powers.**~~
- ~~12:00 PM Aug 2, 2020 Hootsuite Inc.¹⁴⁹ Dr. Levine, MD, says “evidence shows mask-wearing, w/ other simple actions, prevents disease & saves lives. Not everyone is able to wear a mask, many for medical reasons. We should avoid the temptation to judge/shame; instead, we should lead by example and show understanding. #VT” Unmasked people are regularly harassed and refused service.~~
- ~~August 14 Scott FB post - “Five months ago, when cases, and deaths, were first spiking, we weren’t wearing masks; no one knew what social distancing meant; many weren’t thinking about washing their hands multiple times a day, much less for a full 20 seconds; and, sadly, folks were much more likely to go out, or go to work, even if they felt sick.”~~
- ~~August 20 Scott FB post - “Vaccines are an exceptionally safe method to prevent disease. Young children are particularly vulnerable to vaccine-preventable diseases until they can be fully immunized. Ensuring routine vaccination is maintained, even during the COVID-19 pandemic;~~

¹⁴⁷ https://twitter.com/spj_tweets/status/1281619379239694337

¹⁴⁸ <https://twitter.com/GovPhilScott/status/1287096864387616769>

¹⁴⁹ <https://twitter.com/healthvermont/status/1289954321430388738>

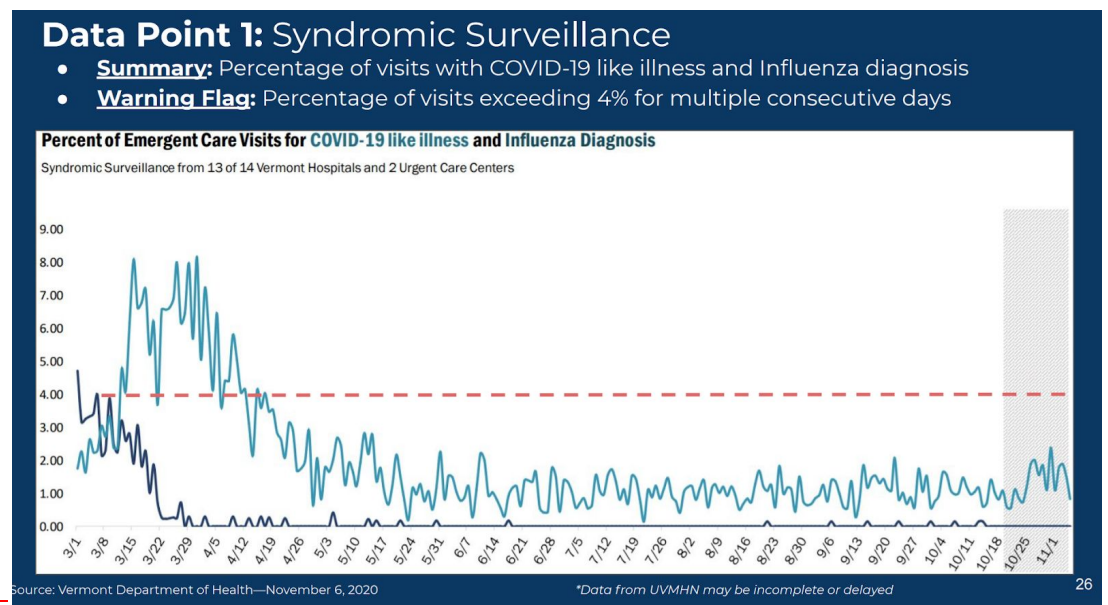
is essential for protecting public health.” Why then does the flu shot name as it’s first adverse outcome anaphylaxis and death? **See vaccine injury table attachment** This emergency Covid-19 vaccine contains mRNA, which has never before been approved by the FDA, for a reason, animal testing has resulted in fatality when the animal is exposed to the wild virus. Secondly, the trials excluded people with allergies, and those with allergies should not be taking it, but the State of Vermont is unconcerned about this, (see Attachment 3c FOIA request) and unconcerned about possible adverse reactions, or the fact that no one will have liability to those the vaccine harms. This statement reveals motive, explaining the Defendants lack of interest in Covid-19 prevention through established therapeutics, and lack of interest in medical dissent with the protocols:

- ~~September 24 Scott FB post - “In January, when I gave my State of the State address, none of us knew there was a once-in-a-century crisis headed our way. Our world is much different today, but one simple truth remains: We must continue to focus on the facts and work together to keep our neighbors and communities safe.” There is no way to accurately predict anything, much less a once-in-a-century crisis. Fear inducing.~~
- ~~October 7 Scott FB post - ¹⁵⁰“Last week we surpassed 1,000,000 COVID-19 deaths worldwide and over 200,000 deaths as nation. With each grim milestone we pass, it remains clear that the virus is still among us. While Vermont still has the lowest case counts in the nation, cases around the country - and in our region - are rising. If we want to continue to keep each other safe, and keep safely reopening the economy, we need to stay vigilant, and do the things we’ve been doing: Wear your mask = Avoid crowds = Keep 6 feet apart = Wash your hands” With the knowledge from the CDC that only 6% of deaths were from covid alone~~

¹⁵⁰ <https://nypost.com/2020/10/17/how-the-media-is-misreporting-covid-19s-death-toll-in-america/>

¹⁵¹, (see attachment) our grim milestones are not nearly as grim as the 1.4 million people that die from TB annually.

- ~~2:40 PM Nov 10, 2020 Twitter Web App¹⁵² “Today’s modeling update shows continued concerning trends nationally, regionally and in Vermont. We’ve gone months with such low disease prevalence that many have become more lax, but the rise in cases shows the risk is higher than what we’re used to”¹⁵³ This is the flu season coming back, and when the PCR is cycled at 37 as the state recommends, it offers false positives, see later PCR sections in this complaint. Look at the screen shot from page 26 of Vermont’s modelling, below, and you will notice that the State is conflating the flu and Covid 19. The graph shows the minimal effects on the ICU beds, yet the Defendant continues to instill fear in the public.~~



- ~~4:17 PM Nov 13, 2020 Twitter Web App¹⁵⁴ “We now have no choice but to restrict social gatherings, whether in homes, bars or a parking lot after a game. So, starting today, multi-household gatherings, both inside and outside, whether in public or private spaces, are prohibited.” “No~~

¹⁵¹

<https://pjmedia.com/news-and-politics/stacey-lennox/2020/08/31/the-new-york-times-does-accidental-journalism-on-covid-19-testing-n867152>

¹⁵² <https://twitter.com/GovPhilScott/status/1326248455371694083>

¹⁵³ https://dfr.vermont.gov/sites/finreg/files/doc_library/dfr-covid19-modeling-111020.pdf

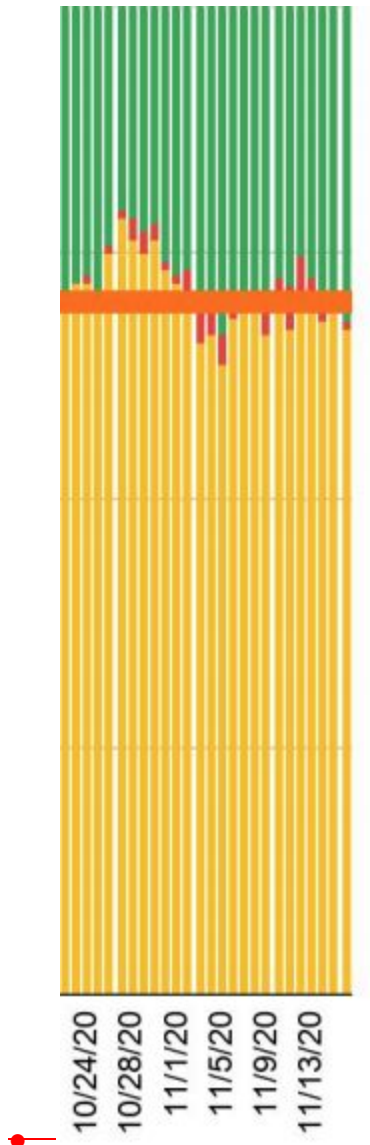
¹⁵⁴ <https://twitter.com/GovPhilScott/status/1327359992601702401>

choice”, is an interesting choice of words, as sovereign human beings always have a choice. These statements stray far from the constitutionally, and lawfully accepted norm:

- ~~11:27 AM Nov 17, 2020 Twitter Web App~~¹⁵⁵ ~~“The consequences of an overwhelmed healthcare system will have a far greater impact on our economy and welfare than all the prevention and mitigation measures. The skeptics are right, they can do what they want. But please don’t call it patriotic or pretend it’s about freedom.”~~ Here the Defendant continues his shaming of Vermonters who are concerned about his abuse of power, harms, and constitutional overreaches while concurrently remaining unapproachable by Vermonters.
- ~~November 17, 12:03 Scott FB post - “To the skeptics: If you want to ignore or choose not to believe the science, there’s not much we can do to stop you. But the number of people in hospitals is growing because some care more about what they want to do rather than what they need to do to help protect others. The consequences of an overwhelmed healthcare system will have a far greater impact on our economy and welfare than all the prevention and mitigation measures. The skeptics are right, they can do what they want. But please don’t call it patriotic or pretend it’s about freedom. Real patriots serve and sacrifice for all, whether they agree with them or not. Patriots stand up and fight when our nation’s health and security is threatened, and right now, our country and way of life are being attacked by this virus, not the protections we put in place.”~~

Defendant Scott encourages shame on those who question. Below is a close-up of the Vermont modelling for the week of Nov 17 2020. You will see the (alleged) Covid-19 ICU bed use in red compared to normal ICU bed use in yellow. Minimal, yet, the Governor warns of overwhelming the hospital system. Since the media is remiss in checking the facts compared to the statements, this essential job is left to the public.

¹⁵⁵ <https://help.twitter.com/using-twitter/how-to-tweet#source-labels>



- ~~11:18 AM - Nov 20, 2020 - Scott Twitter¹⁵⁶ - "Yesterday, as we marked 8 months since our first deaths from COVID-19, we lost another Vermonter, bringing the total to 62. After months without a single death, we've sadly lost four more Vermonters in the last two weeks". The number 62 is inaccurate and misinforms the public.~~
- ~~11:19 AM - Nov 20, 2020 - Scott Twitter¹⁵⁷ - "Outdoor fitness activities involving no more than two people from different households are allowed, so you can take a walk with a friend but you must maintain your distance~~

¹⁵⁶ <https://help.twitter.com/using-twitter/how-to-tweet#source-labels>

¹⁵⁷ https://twitter.com/hashtag/FreePressFriday?src=hashtag_click

~~& mask up. Recreational sports are still on hold & all announcements from last week remain in place.” Yet feel free to go to your local gym or spin class, close together, huffing and puffing? Contradictions abound.~~

- ~~11:33 AM Nov 24, 2020 Scott Twitter for iPhone “Maybe you just aren’t worried about getting the virus. You’re young/healthy, you can work remotely or you just¹⁵⁸ don’t think it’s a big deal. But you never know if you’re going to be the domino that leads to a nursing home outbreak or pushes an entire school to remote learning.”~~ Guilt and shame are powerful tools when used to stop you from seeing Gramma for fear of killing her, even if Gramma wants you to visit. Yet, who tracks and traces what employees of nursing homes are doing on their days off? In a stunning reversal of concerns, the media recently stated “do not be alarmed if the elderly die after taking the vaccine²²⁺⁵⁹”.

- ~~11:34 AM Nov 24, 2020¹⁶⁰ Scott Twitter for iPhone “Unfortunately, we know some will still get together and schools have asked for help. @VTEducation will direct schools to ask students or parents if they were part of multi-family gatherings and if the answer is yes, they’ll need to go remote for 14 days or 7 days and a test.”~~ Reminiscent of Hitler Youth in 1930s. Whose job was it to interrogate the school employees?

- ~~November 25, 11:05 Scott FB post - “As you prepare for Thanksgiving tomorrow, please look at Vermont Department of Health guidance to make sure you are doing all you can to keep your family and community safe. Follow our new guidance by:
-Gathering only with your own household (some exceptions for those who live alone)
-Properly quarantining if you travel or have out of state visitors
-Wear a mask and maintain 6 feet distance when around those outside your household”~~

¹⁵⁸ https://twitter.com/hashtag/FreePressFriday?src=hashtag_click

¹⁵⁹

<https://www.lifesitenews.com/news/doctor-on-cnn-dont-be-alarmed-if-elderly-die-after-receiving-covid-vaccine>

¹⁶⁰ https://twitter.com/hashtag/FreePressFriday?src=hashtag_click

- ~~3:49 PM Dec 3, 2020¹⁶¹ Scott Twitter “The months ahead will be tough. Cases are spiking across the nation. VT recorded 46% of our total confirmed cases last month alone. But slowing the spread is literally in our hands. We must all redouble our efforts to help save the lives of our friends and family. We can do this.” Why are preventative therapeutics entirely ignored by Defendants administration? Why don’t they know that the WHO See FOIA request Attachment 3c~~
- ~~11:22 AM Dec 4, 2020¹⁶² Scott Twitter “It’s much different than other crises we’ve experienced. This isn’t a 24 hr. storm- it’s been so prolonged and we don’t know when it will end. It’s forced us to be physically/emotionally separated from the people closest to us who we typically rely on during challenging times.” Prolonged? Were people constantly sick, in the hospital, dying daily from the beginning of February? No advice to use therapeutics, like, vitamins D, C, Zinc and increase access to oxygen.~~
- ~~11:22 AM Dec 4, 2020¹⁶³ Scott Twitter “The vaccine is right around the corner, but until it’s in our hands & can be distributed to front-line workers, the most vulnerable & a big percentage of the population, the threat of this virus is very real. While we’ve done better than any other state, we’re not invincible.” The vaccine will not guarantee to stop contagion. Why do the Defendants push an experimental vaccine on everyone for a virus with a statewide 99.99% recovery rate? How will Vermonters be compensated for expected vaccine adverse reactions?~~
- ~~December 4, 11:28 Scott FB post - Yesterday, we had our highest case count since the beginning of the pandemic: 178 positive tests. While 16 of these cases should have been reported as far back as November 21, it’s clear that the virus is widespread and very active right now. This unfortunately means our data does not support the return to school sports or recreational sports at this time, but we’ll continue to evaluate this each~~

¹⁶¹ <https://twitter.com/GovPhilScott/status/1334600640262238216>

¹⁶² <https://twitter.com/GovPhilScott/status/1334895924183773187>

¹⁶³ <https://twitter.com/GovPhilScott/status/1334895792696528896>

~~week. I urge Vermonters to follow our health guidance. It's the most practical and impactful thing we can do right now to get a handle on the virus and keep it out of nursing homes and away from the most vulnerable, as we continue to ramp up surveillance testing and contact tracing. This means we all need to wear a mask, wash our hands, refrain from travel unless we really need to and stop social gatherings with other households until we can slow down this community transmission. The vaccine is right around the corner, but until it's in our hands and can be distributed to front-line workers, the most vulnerable and a big percentage of the population, the threat of this virus is very real. While we've done better than any other state, we're not invincible". -Emphasis added to remind you the vaccine is our only hope.~~

- ~~10:17 AM Dec 5, 2020¹⁶⁴-Scott Twitter "We're making these sacrifices this year so that next year, when we can gather for our favorite events and celebrations with family and friends, nobody is missing. We will get through this, together, by staying united as Vermonters. We can do this."~~
~~What is the end goal? Is it zero deaths for an extended period of time, which we already had? Is it zero cases? Is it 100% mandatory vaccination?~~
- ~~11:16 AM Dec 8, 2020¹⁶⁵-Scott Twitter "We also have to be aware of what's going on in other states. Rhode Island has the highest daily case rate in the country. New Hampshire just had a 7% positivity rate with 1,000+ cases. Maine hit its record with 427 cases and Massachusetts saw 7,000+ cases in the last two days."~~
~~Cases equal public fear. Even when the facts from the inventor clearly state the PCR test is not meant for determining illness.~~
- ~~¹⁶⁶11:16 AM Dec 8, 2020 Scott Twitter "As we await vaccine approval from the FDA, there is light at the end of the tunnel. But we're not there yet and we still have difficult days and months ahead. The vaccine will not~~

¹⁶⁴ <https://twitter.com/GovPhilScott/status/1335241962765635586>

¹⁶⁵ <https://twitter.com/GovPhilScott/status/1336343852723146754>

¹⁶⁶ <https://twitter.com/GovPhilScott/status/1336343914668826631>

provide instantaneous relief- it will be many months before we receive enough for everyone."

- ~~December 8, 11:38 Scott FB post - Today we provided our weekly modeling update and Dr. Levine announced a new step in our contact tracing process to help get information more quickly to those who've been in close contact with a positive case:
dfr.vermont.gov/about-us/covid-19/modeling. We're still seeing too many days with triple-digit new cases, and our long-term care facilities are still being impacted, unfortunately leading to more loss of life. I know it's hard to be separated from friends and family, but I urge Vermonters to follow our health guidance, like avoiding multi-family gatherings. Avoid travel, and if you do take a trip, you must quarantine for seven days followed by a test. And when you're around those outside your household, wear a mask, keep six feet apart and wash your hands. Many are waiting to hear when we might roll back some of our most recent guidance to allow for more travel and gatherings. But as we said last week, it's still too early to know the impact of Thanksgiving and make a decision on whether to reduce or add additional steps. We also have to be aware of what's going on in other states: Rhode Island has the highest daily case rate in the country; New Hampshire just had a 7% positivity rate with 1,000+ cases; Maine hit its record with 427 cases; and Massachusetts saw 7,000+ cases in the last two days. Even if our numbers improve, I remain concerned about how our neighbors may affect us, so while we continue to collect data over the next few days, I'm asking for your patience and perseverance. As we await vaccine approval from the FDA, there is light at the end of the tunnel. But we're not there yet and we still have difficult days and months ahead. The vaccine will not provide instantaneous relief- it will be many months before we receive enough for everyone. This new casademic message is very effective at creating vaccine compliance for a virus with a 99.99% recovery rate.~~

~~59. It is difficult to argue that the State of Vermont is not manipulating the public in at least three ways, to build up the fears of cases, and thus the fears of each other, to shame Vermonters away from concern about the constitutional crisis, and to coerce Vermonters into accepting an experimental vaccine that for the first time in FDA history utilizes mRNA, in other words genetic modification. Plaintiffs submit that the lack of credibility we have shown herein must not be allowed to continue in the courts and, while at this point, we are not addressing the lawfulness or lawlessness of these actions, we do note the opportunity to amend this complaint after discovery exists and that we may, with the Court's approval, exercise that right during this case.~~

Masks

~~60. The mask mandates that have been issued are the 21st century equivalent to the Tea Act that was a substantial factor in the Boston Tea Party. The main difference between the mask mandate and the Tea Act is that where the Tea Act raised money for a war the colonists were not involved in, the mask mandate serves no purpose whatsoever other than to identify who is willing to be compliant with unreasonable governmental mandates and, in fact, creates a number of issues.~~

~~61. Refer to Attachment B for it discusses all that is wrong with the mask mandate in detail but an overview follows:~~

- ~~1. The US Surgeon General, Dr. Fauci and many others have stated the public should not wear a mask in no uncertain terms.⁺⁶⁷~~
- ~~2. Healthy individuals cannot spread the disease.⁺⁶⁸~~
- ~~3. Face masks do not stop the spread of COVID-19.⁺⁶⁹~~
- ~~4. The reason facemasks do not work is simple—the disease particles are smaller than the holes in the weave of facemasks so they simply pass through.⁺⁷⁰~~

¹⁶⁷ See Attachment 5

¹⁶⁸ *Id* at 151

¹⁶⁹ *Id* at 151

¹⁷⁰ *Id* at 151

- ~~5. Even n95 respirators do not provide protection against COVID-19 or similar diseases.¹⁷¹~~
- ~~6. Surgical masks also provide little to no protection from COVID-19 but come with a number of risks.¹⁷²~~
- ~~7. Cloth masks do almost nothing to prevent the spread of COVID-19.¹⁷³~~
- ~~8. Wearing a mask can result in dangerously low oxygen levels for people putting them at risk. Oxygen levels for people wearing masks can be lower than the levels required by OSHA (Occupational Health and Safety Administration).¹⁷⁴~~
- ~~9. The CO2 (Carbon Dioxide) levels caused by masks can actually lead to cognitive impairment.¹⁷⁵~~
- ~~10. There are substantial psychological impacts to wearing masks that may have a particularly negative impact on children.¹⁷⁶~~

~~62. The collective data leaves us with an inexorable conclusion — there is no benefit to the use of a mask in protecting against COVID-19. Numerous factual articles by doctors and surgeons, and statements by governmental agencies support this claim. Also, remember that face masks were not even “mandated” in Vermont until August 1, 2020, well after the “curve had been flattened”. If no deaths were occurring, why then, were masks mandated?~~

~~For more corroborating material see Attachments 5a-b.~~

~~How Dangerous is COVID-19 Really?~~

~~63. Given the above facts the natural reaction is to ask how dangerous COVID-19 really is. Despite what has been said, the true data puts it into perspective. The table below shows both the Case Fatality Rate (“CFR”) and the Reproduction Rate of a number of well-known diseases:~~

¹⁷¹ *Id* at 151

¹⁷² *Id* at 151

¹⁷³ *Id* at 151

¹⁷⁴ *Id* at 151

¹⁷⁵ *Id* at 151

¹⁷⁶ *Id* at 151

Disease	Case Fatality Rate	Reproduction Rate
COVID-19 (Current)	0.26% (Nationally)	0.7 - 1.9 (Globally)
MERS (2012)	34.3%	2-5
SARS-CoV (2002)	9.6%	2-5
2017-2018 Seasonal Flu	0.14%	1.53
Ebola (2014)	25%	1.51
1957-1960 Flu Pandemic	0.28%	1.65
1918-1920 Flu Pandemic	2.25%	1.8
Tuberculosis	12.3%	0.24 - 4.3

Table 1 - Case Fatality Rate (CFR) is the number of deaths divided by the number of cases. Reproduction rate is the number of people an infected person will infect.¹⁷⁷ This Table copied from Attachment 2f

64. As you can see, COVID-19 has a CFR of 0.26%. This is a fraction of the CFR observed in the original SARS or MERS where no widespread action was taken. It also has shown to be far less contagious than the original SARS or MERS. The Spanish Flu, which COVID-19 is regularly compared to, had roughly nine times the CFR and was more contagious than the median reproduction rate from either Vermont or globally. In plain terms, Vermonters have a 99.99% chance of surviving the virus even according to the state of Vermont's idea of the validity of the virus and the cases. There is no health emergency;

¹⁷⁷ Principles of Epidemiology in Public Health Practice, Third Edition

~~we say. There is, however, a critical emergency of a different nature, a constitutional emergency.~~

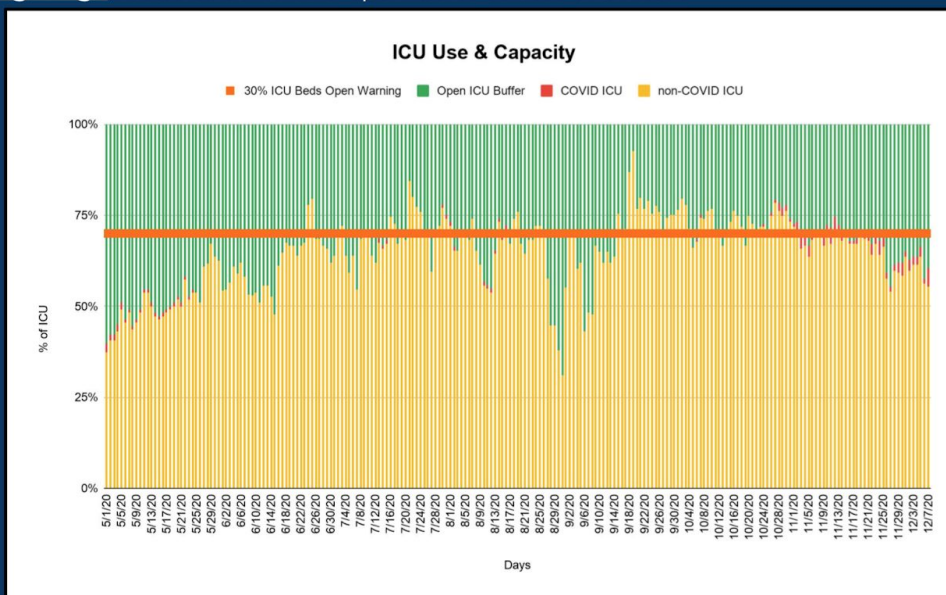
~~65: If we view the danger posed by this disease in terms of its potential to kill people infected with it and in conjunction with its level of contagiousness, then the answer to the question “how dangerous is COVID-19”? We ask the Court, do we believe the yearly flu would warrant the reaction we have seen to COVID-19? Can anyone honestly believe that the founding fathers of our nation would have allowed for the egregious violation of Constitutional rights under the guise of an emergency for something akin to the yearly flu?~~

~~66: Plaintiffs refer to the latest Covid 19 modelling the State of Vermont offers as of Dec 8 2020.¹⁷⁸ Recalling that fear of not having enough ICU beds to take care of the huge influx of covid patients has been a theme since the onset of the declared state of emergency in March 2020 when the state of emergency was initially called by Defendant Scott. A close look at the chart provided by the State of Vermont depicting the number of ICU beds utilized for Covid patients, reveals a tiny red capping on top of regular ICU bed use. There is no justification based on modelling provided by the Defendant to suggest that Covid ICU patients are overwhelming, dominating, or remotely over capacitating the ICU beds in the State of Vermont. See chart below.~~

¹⁷⁸ https://dfr.vermont.gov/sites/finreg/files/doc_library/dfr-covid19-modeling-120820.pdf

Data Point 4: Hospital & Critical Care Beds

- **Summary:** Number of occupied and unoccupied medical surgical and ICU beds
- **Warning Flags:** Reduction in ICU open beds to less than 30%



Source: Vermont Department of Health—December 8, 2020

67: ~~Vermont modelling is only concerned with cases. Cases and infections are determined by a PCR test or an antigen test, both of which cannot differentiate between dead and living viral material, and cannot detect the presumed Covid-19 virus because the virus has never been isolated or passed Koch's postulates. PCR test has fatal flaws as described above and below.~~

68: ~~Several critical facts have come to light since August that are critically relevant. The first comes directly from the CDC:~~

- ~~1. —“Table 3 shows the types of health conditions and contributing causes mentioned in conjunction with deaths involving coronavirus disease 2019 (COVID-19). For 6% of the deaths, COVID-19 was the only cause mentioned. For deaths with conditions or causes in addition to COVID-19, on average, there were 2.6 additional conditions or causes per death. The number of deaths with each condition or cause is shown for all deaths and by age groups.”¹⁷⁹~~

¹⁷⁹ Weekly Updates by Select Demographic and Geographic Characteristics, CENTERS FOR DISEASE CONTROL AND PREVENTION, (Last visited Aug 28, 2020), https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm#Comorbidities

69: ~~This incredible statement substantiates our entire discussion related to the misleading nature of the death counts. It also means that of the total reported “COVID-19 deaths” (288,762 as of 12/08/2020¹⁸⁰) only 17,325.72 of those deaths did not include “conditions or causes” other than COVID-19. This is not to say that COVID-19 was not a part of additional deaths but clearly indicates that it is incredibly unlikely that we have reached 100,000 deaths caused from COVID-19 even at this late date. It is inarguable that the Supreme Court of the United States, the American public, and the citizens of Vermont have been egregiously misled.~~

70: ~~Another document also came to light that is critical in demonstrating the misleading nature of the public COVID-19 data. On the final paragraph of page 39 of a document published by the FDA regarding instructions for a COVID-19 test is the following quote:~~

~~1. —Since no quantified virus isolates of the 2019-nCoV are currently available, assays designed for detection of the 2019-nCoV RNA were tested with characterized stocks of in vitro transcribed full length RNA (N gene; GenBank accession: MN908947.2) of known titer (RNA copies/ μ L) spiked into a diluent consisting of a suspension of human A549 cells and viral transport medium (VTM) to mimic clinical specimen.¹⁸¹~~

71: ~~In plain English this means that there are no available pure 2019-nCoV virus isolates to test against so instead an educated best guess is being used. The question this leads us to is how accurate can a test be for a virus that has not been defined (see above)? If our freedoms are to be abridged under an emergency declaration related to a disease, should it not be a requirement that the disease at least be defined?~~

72: ~~If we ignore the fact there are no virus isolates in availability to establish an actual test, and look at the PCR test *as if it is a viable method of confirming or denying Covid 19 and Sars Cov2* we see the following statement by the inventor of the PCR test Kary Bank Mullis, who won a Nobel prize for it, never agreed it should be used for diagnosis. Mullis has stated:~~

¹⁸⁰~~CDC COVID Data Tracker, THE CENTERS FOR DISEASE CONTROL AND PREVENTION, (Last visited Dec 8,2020), https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days~~

¹⁸¹ See Attachment 4g

~~*"Quantitative PCR is an oxymoron."¹⁸² "PCR is intended to identify substances qualitatively, but by its very nature is unsuited for estimating numbers. Although there is a common misimpression that the viral load tests actually count the number of viruses in the blood, these tests cannot detect free, infectious viruses at all; they can only detect proteins that are believed, in some cases wrongly, to be unique to HIV. The tests can detect genetic sequences of viruses, but not viruses themselves. What PCR does is to select a genetic sequence and then amplify it enormously. It can accomplish the equivalent of finding a needle in a haystack; it can amplify that needle into a haystack. Like an electronically amplified antenna, PCR greatly amplifies the signal, but it also greatly amplifies the noise. Since the amplification is exponential, the slightest error in measurement, the slightest contamination, can result in errors of many orders of magnitude."*~~

73: ~~The intended use of the PCR was, and still is, to apply it as a manufacturing technique, being able to replicate DNA sequences millions and billions of times, and not as a diagnostic tool to detect viruses. How declaring virus pandemics based on PCR tests can end in disaster was described by Gina Kolata in her 2007 New York Times article *Faith in Quick Test Leads to Epidemic That Wasn't*.²²¹⁸³~~

74: ~~In an August 28, 2020, interview with The Post,¹⁸⁴ Michael Levitt, Nobel Prize winner and professor of structural biology at Stanford, stated mass testing is "a huge waste of money which could much better go to helping people who have lost their jobs ... It's great for the pharmaceutical companies selling test kits, but it's not doing anything good."~~

¹⁸² <http://www.virusmyth.org/aids/hiv/jlprotease.htm>

¹⁸³ <https://www.nytimes.com/2007/01/22/health/22whoop.html>

¹⁸⁴ The Post August 28, 2020

75. ~~“Lockdowns and hygienic measures around the world are based on numbers of cases and mortality rates created by the so-called SARS-CoV-2 RT-PCR tests used to identify “positive” patients, whereby “positive” is usually equated with “infected.” But looking closely at the facts, the conclusion is that these PCR tests are meaningless as a diagnostic tool to determine an alleged infection by a supposedly new virus called SARS-CoV-2.”¹⁸⁵~~

76. ~~“All this fits with the fact that the CDC and the FDA, for instance, concede in their files that the so-called “SARS-CoV-2 RT-PCR tests” are not suitable for SARS-CoV-2 diagnosis.¹⁸⁶ In the “CDC 2019–Novel Coronavirus (2019-nCoV) Real-Time RT-PCR Diagnostic Panel”¹⁸⁷ file from March 30, 2020, for example, it says:~~

- ~~● “Detection of viral RNA may not indicate the presence of infectious virus or that 2019-nCoV is the causative agent for clinical symptoms”~~

~~And:~~

- ~~● “This test cannot rule out diseases caused by other bacterial or viral pathogens.”~~

~~And the FDA admits that:~~

- ~~● “positive results [...] do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease.”¹⁸⁸~~

77. ~~Dr. Anthony Fauci has admitted that the PCR test is useless and misleading when run at “35 cycles or higher.” He made this comment in a July 16, 2020, “This Week in Virology”¹⁸⁹ podcast:~~

~~Dr. Anthony Fauci on administering the test at 40 cycles: “the PCR COVID test is useless and misleading when the test is run at “35 cycles or higher. A positive result, indicating~~

¹⁸⁵ <https://bpa-pathology.com/covid19-pcr-tests-are-scientifically-meaningless/#comments>

¹⁸⁶ https://off-guardian.org/2020/06/27/covid19-pcr-tests-are-scientifically-meaningless/?fbclid=IwAR3G6Fuq8C-8XW7szL43scbKOYFx78irq52A6ZQCRdZmPMWiHTqD_2jv4Zo#2

¹⁸⁷ <https://www.fda.gov/media/134922/download>

¹⁸⁸ <https://www.fda.gov/media/136151/download>

¹⁸⁹ On a July 16, 2020 podcast, “This Week in Virology” at about the 4 minute mark. https://youtu.be/a_Vy6fgaBPE?t=270

~~infection, cannot be accepted or believed. Each “cycle” of the test is a quantum leap in amplification and magnification of the test specimen taken from the patient, or the healthy individual. Too many cycles, and the test will turn up all sorts of irrelevant material that will be wrongly interpreted as relevant. That’s called a false positive.”~~

78: This begs the question, why, then is the Vermont Department of Health recommending in Dec of 2020 that the PCR test be run at 37 cycles, and why does the FDA recommend that the tests be run at 40 cycles?

79: From Asymptomatic 'Casedemic' Is a Perpetuation of Needless Fear Analysis by Dr. Joseph Mercola, November 19, 2020¹⁹⁰

~~“As reported by Global Research in “The COVID-19 RT-PCR Test: How to Mislead All Humanity. Using a ‘Test’ to Lock Down Society”¹⁹¹~~

~~“Official postulate ... positive RT-PCR cases = COVID-19 patients. This is the starting postulate, the premise of all official propaganda, which justifies all restrictive government measures: isolation, confinement, quarantine, mandatory masks, color codes by country and travel bans, tracking, social distances in companies, stores and even, even more importantly, in schools.~~

~~This misuse of RT-PCR technique is used as a relentless and intentional strategy by some governments, supported by scientific safety councils and by the dominant media, to justify excessive measures such as the violation of a large number of~~

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https://articles.mercola.com/sites/articles/archive/2020/11/19/covid-testing-fraud-fuels-casedemic.aspx?ui=d9ff781ee1939b9e7c0d90194fe3f2272f9858eec12f41c057e3a7fe4c1bc106&cid_source=dnl&cid_medium=email&cid_content=art1ReadMore&cid=20201119_HL2&mid=DM723904&rid=1015075101

¹⁹¹ <https://www.globalresearch.ca/covid-19-rt-pcr-how-to-mislead-all-humanity-using-a-test-to-lock-down-society/5728483>

constitutional rights, the destruction of the economy with the bankruptcy of entire active sectors of society, the degradation of living conditions for a large number of ordinary citizens, under the pretext of a pandemic based on a number of positive RT-PCR tests, and not on a real number of patients.”

80: From Investigative journalist Jon Rappaport:

~~“All labs in the U.S. that follow the FDA guideline are knowingly or unknowingly participating in fraud. Fraud on a monstrous level, because... Millions of Americans are being told they are infected with the virus on the basis of a false positive result, and ... The total number of COVID cases in America — which is based on the test — is a gross falsity. The lockdowns and other restraining measures are based on these fraudulent case numbers. Let me back up and run that by you again. Fauci says the test is useless when it’s run at 35 cycles or higher. The FDA says run the test up to 40 cycles in order to determine whether the virus is there. This is the crime in a nutshell ... On the basis of fake science, the country was locked down.”²²¹⁹²~~

~~A Final Summary of Facts~~

~~81: The bottom line is this, there is no emergency.~~

~~82: The so-called “curve” was flattened by mid April, yet mandates continued. Temporary facilities were never used. There were no mass casualties throughout the nine months.~~

~~83: If we use Vermont’s COVID Dashboard numbers, there have been less than 89 deaths with COVID in 9 months. According to the CDC, in 2017 Vermont experienced:~~

¹⁹² <https://blog.nomorefakenews.com/2020/11/06/smoking-gun-fauci-states-covid-test-has-fatal-flaw/>

~~——1,434 deaths from heart disease;~~
~~——1,332 deaths from cancer; and~~
~~——394 deaths from accidents.¹⁹³~~

~~See attachment 2e~~

~~84: All without an emergency declaration.~~

~~85: As discussed above, cases are an inaccurate and unreliable measure of the danger of this disease and as demonstrated by the removal and cessation of any steps to expand the number of hospital beds available, not demonstrative of any true risk.~~

~~86: The testing for cases makes this even worse, given that there is not even a true standard for testing (see above). Instead we have numerous tests from numerous vendors that may or may not have a similar standard for what it means to “have” COVID-19. The CDC, Defendant Scott, and VDH know this, yet they have allowed for the diagnosis of cases based on as meaningless criteria as a cough in a community in which COVID supposedly exists.~~

~~87: The Plaintiffs have not yet touched on the discussion of prevention through therapeutics, in a state that has in recent history attempted to force the labelling of GMO’s, an awareness of whole food, natural health and alternative therapeutics is high. It is a source of amazement, therefore, to the Plaintiffs, that the State of Vermont has not seen to it that every person in the State of Vermont has the optimal daily level of Vitamin D, C, Zinc, and access to known proven preventative medicines, such as Ivermectin,¹⁹⁴ and others¹⁹⁵.~~

~~88: So minimal is this disease that the governor, VDH, CDC, and other such organizations had to use psychology, specifically motivational theory, to scare people into action. This is because no rational person would do what the public health industry would ask them to do if the true facts were shared.~~

~~89: Ultimately, under the 9th and 14th Amendments, an overwhelming amount of precedent, the spirit and letter of the Constitution, and the plain application of common sense, there is no legitimate argument for the State of Vermont using emergency powers to bypass~~

¹⁹³<https://www.cdc.gov/nchs/pressroom/states/vermont/vermont.htm>

¹⁹⁴ <https://www.sciencedirect.com/science/article/pii/S0166354220302011>

<https://www.fox5ny.com/news/doctor-pleads-for-review-of-data-on-ivermectin-as-covid-19-treatment-during-senate-hearing> and <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3043740/>

¹⁹⁵ <https://www.henryford.com/news/2020/07/hydro-treatment-study>

~~legislative and judicial precedent and act as though our executive branch is akin to a king and court.~~

90: ~~If the Court is willing to allow the fabric of society and fundamental rights to be destroyed without due process or legislative involvement, then our democratic republic is lost.~~

91: ~~We remind the Court that under 18 U.S.C. 47 Section 1040 criminal fraud in connection with major disaster or emergency benefits is defined as:~~

- ~~1. Whoever, in a circumstance described in subsection (b) of this section, knowingly—~~
 - ~~a. falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or~~
 - ~~b. makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.~~

92: ~~We believe this Section is relevant to many of the medical centers that are promoting this false narrative and profiting from doing so. We further remind the Court that an act of fraud is outside the scope of the authority of the various office holders in a number of State agencies. While the Plaintiffs are not in a position to prosecute such fraud the facts seem to~~

~~suggest that the State of Vermont and many others would have known that this disease is far less dangerous than it has been shown to be and that it knowingly concealed and covered up relevant data. In simple English, *the entire edifice* of the Gates foundation, the Merkel government, the WHO and WEF, the CDC and Fauci, as well as the case for de facto forced untested vaccines, *rests on results of a PCR test for coronavirus* that has been clearly proven to be inaccurate and unreliable.~~

93: ~~Now in December, 2020, while the State has yet to mandate the vaccine, they have been neglecting an important aspect of due diligence, that is the expected adverse reactions and harm of any experimental vaccine. Current Covid 19 vaccines have not been properly vetted through animal trials and exhaustive safety testing, they amount to a world wide experiment on human beings. Neither the Defendants nor the vaccine makers bear any liability for the harms these vaccines may cause, and of special concern, is the fact that none of the vaccines claim to stop contagion, but even more critically, these types of mRNA vaccines have never been approved before by the FDA, upon information and belief, Plaintiffs have not seen due diligence on the part of the State of Vermont, only a reckless rush to administer a vaccine for an alleged virus that is not deadly to more than 99% of the people.~~

~~“Documents published by the two companies showed that people with a history of severe allergic reactions were excluded from the trials, and doctors were advised to look out for such reactions in trial participants who weren’t previously known to have severe allergies”.~~¹⁹⁶

~~For more corroborating material on therapeutics see attachments 6a-d~~

~~For more corroborating material on vaccines see attachments 7 a-d~~

Law

Count 1

¹⁹⁶ <https://www.denverpost.com/2020/12/09/pfizer-covid-vaccine-allergic-reactions/>

~~See Motion for Preliminary Injunction Injunctive Relief~~

~~Count 2~~

~~The exigencies underlying the declaration for emergency no longer exist.~~

94. Under *Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398 (1934) the Supreme Court stated, “Whether the emergency still exists upon which the continued operation of the law depends is always open to judicial inquiry.” P. 290 U. S. 442. Citing *Chastleton Corp. v. Sinclair*, 264 U.S. 543 (1924). It is under this precedent that we challenge the continuation of the emergency declaration in the state of Vermont.

95. In *Sinclair* the Court stated that “A law depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency ceases or the facts change.” P. 264 U. S. 547. Both *Blaisdell* and *Sinclair* provide clear authority that an emergency and the rules promulgated thereunder must end when the facts of the situation no longer support the continuation of the emergency. *Sinclair* focused almost entirely on the concept that a change in circumstance and, in reversing the lower Court’s decision stated, “the facts should be gathered and weighed by the court of first instance and the evidence preserved for consideration by this Court if necessary.” P. 264 U. S. 549

96. This is clearly similar to the situation faced by Plaintiffs here. The State emergency declaration was premised on, at best, incorrect information and misleading information. We have demonstrated on the face of this complaint that the exigencies underlying the declaration for emergency no longer exist and will show at trial the full extent to which this is true. As such we humbly ask the Court to recognize that these exigencies no longer exist pursuant to Count 2.

~~Count 3~~

~~The public health emergency based on Executive Order 01-20 has ended.~~

97: If the exigencies supporting an emergency declaration no longer exist, then the emergency declaration itself must end pursuant to *Blaisdell*. Plaintiffs have demonstrated in this complaint and will further demonstrate at trial that the facts used to justify the emergency declared to mitigate COVID-19 were incorrect and/or false and so the declaration itself is no longer valid. The *Sinclair* Court stated, “a Court is not at liberty to shut its eyes to an obvious mistake when the validity of the law depends upon the truth of what is declared.” That simply could not be more relevant, nor more controlling than as applied to the case at hand and, as such, Plaintiffs request the Court to declare an end to the public health emergency declared in Vermont.

Count 4

All actions taken under Executive Order 01-20 are invalid

98: Pursuant to Count 3, and under *Sinclair* Plaintiffs humbly request the Court to declare that all orders issued under the authority of the public health emergency in Vermont are invalid. Again, under *Sinclair*, these orders were issued under the authority of an emergency declared on false or misleading statements of facts and are thus unlawful.

99: Vermont has a perfectly valid administrative procedures act¹⁹⁷ and, should the state see fit to create these rules through a legal and democratic rulemaking process they may. The State may not, however, allow such rules to continue to stand when they have been made based on false or misleading facts.

100: Defendant Scott, by issuing Emergency orders, directives, mandates and protocols since March 13 2020, by and through the apparatus of State Government, under the deceptive and fraudulent guise of a meritorious function of saving Vermont lives, has instead subjected Plaintiffs and Nos Populi of Vermont to disruption of social peace and order,

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https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=f2d97f93-215c-4050-be55-2116b2937f03&config=00JAA3YmlxY2M5OC0zYmJlLTQ4ZjMtYjY3Yi02ODZhMTViYWUzMmEKAFBvZENhdGFsb2dfKuGXoJFNHkuKZG9Ogaal&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A5WS0-FPD1-FGRY-B0KS-00008-00&pdcontentcomponentid=234125&pdteaserkey=sr8&pditab=allpods&ecom=c5w_kkk&earg=sr8&prid=a7796b24-46ac-4017-ba85-9697c561cebf

~~trauma and fearfulness of one another for the purpose of mass compliance, rather than the meritorious purpose and constitutional duty to preserve collective peace and wellbeing.~~

~~101: Defendant Scott's designation of essential businesses vs unessential ones, is meritless, as if 500 persons in a Walmart are somehow safer than five persons in a small Mom and Pop store, or eating with friends or family in a restaurant without masks is safer than meals with family or friends at home. Plaintiff's experiences with businesses and pursuit of happiness within their communities has been harmed by the scope of, lack of merit of, and faulty science of the emergency orders.~~

~~Count 5~~

~~Executive Order 01-20 and subsequent addendums are no longer valid because they violate Vermont Statute V.S.A 20 § 8 (4).~~

~~102: Although V.S.A. Title 20: Internal Security And Public Safety, Chapter 1: Emergency Management § 8 General Powers of the Governor is referenced as the law that grants the Governor and the State of Vermont the authority to create Lockdowns, and Quarantines and Medical Device Mask Use, and prohibitions of Assembly, and prohibitions of Religious Assembly, and Religious Song while Assembled, or any practice of Assembled Song in a Pursuit of Happiness, Prohibitions of the Freedom of Movement and Travel, Prohibitions on the right to work, and more, subsection (4) states that the General Powers of the Governor are limited to those that do not infringe on Vermont's constitution. Specifically, *"to take any measures not inconsistent with the constitution of this state."* The Plaintiffs claim herein that the Defendants have infringed on the rights enumerated in the Vermont Constitution and caused unilateral harm to all Plaintiffs as a result. **Plaintiffs demand that no alteration to Vermont Statute V.S.A 20 § 8 (4) by legislation shall be enacted regarding all emergency mandates relative to Covid 19, until these matters have been adjudicated and are settled law.**~~

~~Count 6~~

~~Executive Order 01-20 and subsequent addendums are no longer valid because they violate Vermont Statute V.S.A 20 § 9 (8) by unilateral infringement upon Constitutional Rights.~~

103: ~~Plaintiffs demand that no alteration to Vermont Statute V.S.A 20 § 9 (8) by legislation shall be enacted regarding all emergency mandates relative to Covid 19, until these matters have been adjudicated and are settled law.~~ Although V.S.A. Title 20: Internal Security And Public Safety, Chapter 1: Emergency Management § 9 Emergency Powers of the Governor is referenced as the law that grants the Governor and the State of Vermont the authority to create Lockdowns, and Quarantines and Medical Device Mask Use, and prohibitions of Assembly, and prohibitions of Religious Assembly, and Religious Song while Assembled, or any practice of Assembled Song in a Pursuit of Happiness, Prohibitions of the Freedom of Movement and Travel, Prohibitions on the right to work, and more, V.S.A 20 § 9 (8) states that the Emergency Powers of the Governor are limited: *~~“...to take such action, not inconsistent with the Constitution and the laws of the State,”~~* where the previous statute (V.S.A. 20 § 8 [4]) states that the Governor may take measures that are consistent with the highest law of Vermont, the Vermont Constitution, and yet, Defendant Scott has ignored that section and element of (V.S.A. 20 § 8 [4]) in an apparently willful attempt to mislead the public into thinking their actions are consecrated by Vermont law and the US Constitution, it is the Plaintiffs’ claim, that the Defendants willfully misrepresented the aforesaid to cover over their violations of both.

104: Defendant Donovan, whose job description includes: *~~The Attorney General shall advise the elective and appointive state officers on questions of law relating to their official duties and shall furnish a written opinion of such matters, when so requested. He shall have general supervision of matters and actions in favor of the state and of those instituted by or against state officers wherein interests of the state are involved and may settle such matters and actions as the interests of the state require. 3 V.S.A. § 159.~~* Plaintiffs maintain within our claim it cannot be reasonably argued that Defendant Donovan was unfamiliar, or did not bother to closely inspect and research V.S.A. 20 § 8 (4), or V.S.A. 20 § 9 (8) and prohibit the Governor from acting unilaterally to infringe upon unalienable rights.

105: Defendant Donovan has himself taken an Oath of Office to stay true to the laws of the land and the Constitution. Upon belief and information, Plaintiffs claim that Defendant Donovan is in violation of his Oath of office to uphold the laws of the State, the State’s Constitution and the US Constitution by neglecting to publicly confront Defendant Scott in his capacity as Governor of Vermont, as the latter unilaterally infringed upon the freedoms and unalienable

rights enumerated in our Constitutions, state and national, and violate state statutes V.S.A. § 8 (4), and V.S.A. 20 § 9. (8):

106: Defendant Donovan is a public servant, sworn to uphold the laws of the land for the benefit of the People of Vermont, not represent solely the interests of a small subset, such as the executive branch may be, as such Plaintiffs claim he has violated the State and US Constitutions and VT law to enforce Defendant Scott's emergency orders, mandates and directives harming plaintiffs unilaterally and specifically Plaintiff Peyton:

107: Defendant Scott makes no effort to correct the public's misunderstanding of his mandates and orders - promoting them as genuine law, so it's useful to review the following; "If any statement, within any law, which is passed is unconstitutional, the whole law is unconstitutional" Defendant Donovan makes no attempt to correct those misunderstandings or to limit Defendant Scott to the bounds of his constitutional and statutory authority. - *Marbury v. Madison* : 5 US 137 (1803):

"No provision of the Constitution is designed to be without effect," "Anything that is in conflict is null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bare no power to enforce, in would bare no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law."²²

108: Defendant Scott has no Constitutional or other valid authority to defy the Constitutions, to which he owes his **limited** authority, **delegated to him by and through the People**, and to whom he swore his oath; yet, by his actions against the People he has indeed violated those Oaths and engaged in myriad instances harms to Plaintiffs:

Count 7

~~Injunctive relief should be granted against future public health emergency declarations in the State of Vermont unless enabling legislation is passed.~~

~~109: All orders issued by Defendant Scott under authority of the State Emergency Declaration that hinder or prohibit or place an embargo of any kind on any Vermont business must be terminated, because the General Assembly was in session when the embargo occurred and the embargo of goods and services has gone on long past 30 days directed in the Vermont Constitution, Chapter II section 20.~~

~~110: In section 20 chapter II of the Vermont Constitution, Powers of the Governor: -- “The Governor may also lay embargos, or prohibit the exportation of any commodity, for any time not exceeding 30 days, in the recess of the General Assembly only.” For the purposes of this claim, the Plaintiffs rely on the common definition of embargo as **a legal prohibition on commerce.**~~¹⁹⁸

~~111: Plaintiffs believe that this clear statement of the law should apply to Executive Order 01-20 itself and so this order should be ruled to no longer be valid.~~

~~Count 8~~

~~Permanent injunctive relief against future actions taken under the guise of this or any other public health emergencies that violate legislative or Constitutional rights should be granted unless the appropriate standards of review are met under established law or precedent.~~

~~112: Under Count 8 we request the Court to declare intermediate scrutiny to be the minimal standard to review State actions taken under an emergency declaration. Several actions taken under Vermont’s declaration of emergency have violated rights of citizens already subject to intermediate or strict scrutiny and we discuss those here.~~

~~113: Since *Jacobson* judicial precedent has recognized a number of rights, so enshrined in our Constitution, that they are considered fundamental. Over and over the Court has ruled that these rights may not be abridged unless the State can show that it is necessary to serve a compelling governmental interest. Further, even if that incredibly high standard is met, the~~

¹⁹⁸ <https://www.merriam-webster.com/dictionary/embargo>

~~State must also show that it has narrowly tailored such law or regulation to use the least restrictive means available to serve that purpose. Vermont's Statutes expressly prohibits Defendants from violating the Constitution during an emergency, and Vermont's constitution being more robust than others in the Nation with regards to individual right to safety, it too, as stated previously, does not afford the Defendants the authority they acted upon.~~

~~114: Since the arrival of COVID-19, the State of Vermont has declared an emergency and, instead of narrowly tailoring a solution to protect the elderly, known from the onset to be the vulnerable group, is trying to remove an entire set of fundamental rights the Court has sought to protect. We believe the Courts are still a coequal branch of the government¹⁹⁹ and that a virus should not serve as grounds to invalidate the precedent it has set over the past 200+ years of our nation. Further, in doing this, the State has harmed each of the plaintiffs in this case by violating their various fundamental rights as discussed above.~~

~~115: We submit to the Court that the many enumerated fundamental rights recognized since *Jacobson* cannot possibly be limited by a public health emergency order for more than the minimal amount of time necessary to ensure they are necessary to serve a compelling overarching public need and thereby a governmental interest. We further believe that even in the extremely rare instance in which a legitimate public health emergency exists that those same fundamental rights still stand, and may only be limited in the narrowest way that allows the government to serve the stated, compelling governmental interest. Any other interpretation leads to the inevitable conclusions that state police power is superior to Constitutional rights and that the role of the federal judiciary is also subservient to those same police powers which is clearly unconstitutional.²⁰⁰~~

~~116: The number of orders that have been issued, redacted, changed, and otherwise altered by the State of Vermont that violate established Constitutional precedent are far too extensive, and convoluted, to review.²⁰¹ We believe the entire approach must be invalidated and that if~~

¹⁹⁹ The Court is a coequal branch of government and its role is to determine the Constitutionality of governmental actions. Marbury v. Madison, 5 U.S. (1 Cranch) 137, 2 L.Ed. 60 (1803)

²⁰⁰ Article VI, Clause 2 of the Constitution, the 14th Amendment; Hebert v. Louisiana, 272 U.S. 312 (1926)

²⁰¹ See Attachment G

the State chooses to take further action, that it should be reissued in compliance with established Constitutional precedent—not at the whims of an overreaching State executive branch and unelected cabinet members. Below is a partial list of fundamental rights that have been violated and that we believe more than substantiate our point:

Statewide House Arrest Without Due Process

117: The plaintiffs in this case have universally suffered restrictions on movement through the house arrest (shelter in place) order issued by the State of Vermont against its citizens without due process. While this order has since been lifted it has been repeatedly threatened and remains on the State Coronavirus Dashboard as a possibility.

118: We believe the State will attempt to suggest that authority to do this under a declared emergency health situation would stem from the established right to quarantine. This terrifying abuse of law developed under the guise of state police powers truly serves to demonstrate how critical it is that the Court grant relief in this case.

119: Quarantine is strict isolation imposed to prevent the spread of disease. A period, originally 40 days, of detention or isolation imposed upon ships, persons, animals, or plants on arrival at a port or place, when suspected of carrying some infectious or contagious disease.²⁰² Isolation, on the other hand, is the separation of infected individuals from the uninfected.²⁰³ Both of these tend to be used interchangeably though there is little legal authority specifically for isolation.

120: Authority for quarantine is well established and exists in both state and federal law. At the time of authoring this complaint we do not intend to challenge the Constitutionality of current quarantine laws and rules but think it is clear that, under no stretch of the imagination, could a statewide house arrest order be construed as a Constitutional use of quarantine powers—state or federal.

121: House arrest is defined as:

²⁰² Quarantine and Isolation, THE CENTERS FOR DISEASE CONTROL AND PREVENTION, (Last visited Aug 31, 2020) <https://www.cdc.gov/quarantine/>

²⁰³ *Id* at 187

1. ~~House arrest~~, court-ordered confinement in one's own home. The sentence is viewed as an important alternative to standard incarceration at various stages of the criminal justice process. It is employed by criminal justice systems around the world and often entails very diverse requirements. There are several forms of house arrest, depending on the severity of the requirements of the court order.²⁰⁴

2. The offender is required to remain in the offender's home or other specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board...

122. This seems indistinguishable from the “Stay home, Stay Safe”²⁰⁵ order issued by the State starting on Monday, March 23, 2020 which stated: “(V)ermonters are directed to stay at home or in their place of residence,...Vermonters shall significantly restrict normal activities outside the home or place of residence, consistent with CDC guidance. To help stop the spread of the virus.”

123. Under this order there is nothing to distinguish between infected or uninfected people. This statewide house arrest²⁰⁶ order was not even done under the pretense of quarantine as it separately and specifically asked interstate travelers to self-quarantine.

124. We can cite no precedent for a statewide house arrest order because it has never before been done. Despite this lack of precedent, we can point to the Due Process Clause of the Constitution and state unequivocally that a statewide house arrest order is clearly unconstitutional under any circumstances and that a quarantine order should be far more narrowly tailored than this to withstand strict Constitutional scrutiny.

Right to Privacy, the 9th Amendment,

²⁰⁴ <https://www.britannica.com/topic/house-arrest>

²⁰⁵

<https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%206%20TO%20EXECUTIVE%20ORDER%202001-20.pdf>

²⁰⁶ <https://www.state.gov/wp-content/uploads/2020/03/2020-03-26-Notice-Vermont-Stay-Home-Order.pdf>

~~and Roe vs. Wade~~

~~125: Roe v. Wade is, arguably, the most controversial and seminal case of the 20th Century. Whether it is good law or not, it has been upheld in more ways than can be counted. A careful reading of the ruling in this case may leave one with certain questions but one item that is clear is the Court's position on *Jacobson* and the idea of intervening in an individual's healthcare choices.~~

~~126: At 78 in the Roe v. Wade decision the Court states,~~

- ~~1. —“In fact, it is not clear to us that the claim asserted by some amici that one has an unlimited right to do with one's body as one pleases bears a close relationship to the right of privacy previously articulated in the Court's decisions. The Court has refused to recognize an unlimited right of this kind in the past: *Jacobson v. Massachusetts*, 197 U.S. 11, 25 S.Ct. 358, 49 L.Ed. 643 (1905) (vaccination); *Buck v. Bell*, 274 U.S. 200, 47 S.Ct. 584, 71 L.Ed. 1000 (1927) (sterilization).~~
- ~~2. —We, therefore, conclude that the right of personal privacy includes the abortion decision, but that this right is not unqualified and must be considered against important state interests in regulation.~~

~~127: The Court then goes on to note that the right to privacy is broad enough to include abortion and, at 83, that:~~

- ~~1. —Where certain 'fundamental rights' are involved, the Court has held that regulation limiting these rights may be justified only by a 'compelling state interest,' *Kramer v. Union Free School District*, 395 U.S. 621, 627, 89 S.Ct. 1886, 1890, 23 L.Ed.2d 583 (1969); *Shapiro v. Thompson*, 394 U.S. 618, 634, 89 S.Ct. 1322, 1331, 22 L.Ed.2d 600 (1969); *Sherbert v. Verner*, 374 U.S. 398, 406, 83 S.Ct. 1790, 1795, 10 L.Ed.2d 965 (1963), and~~

~~that legislative enactments must be narrowly drawn to express only the legitimate state interests at stake. *Griswold v. Connecticut*, 381 U.S., at 485, 85 S.Ct., at 1682; *Aptheker v. Secretary of State*, 378 U.S. 500, 508, 84 S.Ct. 1659, 1664, 12 L.Ed.2d 992 (1964); *Cantwell v. Connecticut*, 310 U.S. 296, 307-308, 60 S.Ct. 900, 904-905, 84 L.Ed. 1213 (1940); see *Eisenstadt v. Baird*, 405 U.S., at 460, 463-464, 92 S.Ct., at 1042, 1043-1044 (White, J., concurring in result).~~

~~128: This is a clear statement that abortion is included, but not central to, privacy rights. It also means that despite it not being a core privacy right, it is still subject to a strict scrutiny review. Given that the court stated this specifically considering *Jacobson*, it is clear that the narrow ruling within *Jacobson* was intended to remain just that—a very narrowly applied ruling.~~

~~129: Within our case the state has implemented numerous orders related to contact tracing²⁰⁷; invasive testing for COVID-19 (despite its minor risk), and other items such as wearing masks²⁰⁸ (which, as noted in the facts above, do not have any relation to preventing this disease.) None of these orders can possibly meet the standard of strict scrutiny and none were narrowly tailored to meet a compelling governmental interest.~~

~~130: One of two things must be true: 1) either the state must show that orders related to masks, contact tracing, mandatory testing, and vaccines for COVID-19 are necessary to serve a compelling governmental interest and that they are narrowly tailored to meet that interest, or 2) we must **overturn** the above related parts of *Roe v. Wade* which the Court has been unwilling to do for nearly 50 years.~~

~~131: In considering this we believe that the Court should also strongly consider the 9th Amendment to the Constitution. In arguing for the 9th Amendment, James Madison stated:~~

~~1. —“It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would~~

²⁰⁷<https://www.necn.com/news/local/vermont-bolster-contact-tracing-testing-uptick-coronavirus-cases/2363325/>

²⁰⁸ ADDENDUM 2 TO AMENDED AND RESTATED EXECUTIVE ORDER NO. 01-20 FRIDAY, JULY 24, 2020

<https://governor.vermont.gov/content/addendum-2-amended-and-restated-executive-order-no-01-20>

~~disparage those rights which were not placed in that enumeration; and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution.~~²⁰⁹

~~132: The 9th Amendment has been reviewed in many ways over the centuries and we will not include a full analysis in this document. That said, if ever there has been an example of an undeclared fundamental right that our founders would never have believed needed to be specified in the Constitution, the right to freely breathe fresh air and go about one's business without a mask would be it. This is in light of the fact that there is absolutely no valid, scientific evidence that masks are facilitating any governmental interest at all—compelling or otherwise.~~

~~133: In other words, the 9th Amendment to the Constitution of the United States of America reserves to each citizen a right to breathe fresh air and exhale breath freely and without interference or limitations imposed by government. The fundamental right to breathe freely is essential to life. Masking a citizen's face and restricting air flow serves no scientific purposes.~~

~~Freedom of Religion~~

~~134: Breathe itself is so fundamentally inherent to life, that unfettered access to breathe is a sacred expression of spiritual experience. Those among the Plaintiffs who actively experience breathe, breathework, meditation and connection to a higher power, God, are having religious freedoms violated by Defendant Scott's mask orders, and subsequent coercion of the businesses of Vermont into executing the order as Law.~~

²⁰⁹ 1 ANNALS OF CONGRESS 439 (1789)

~~135: The Plaintiffs hold that the **breath is sacred**. From King James Bible Genesis 2:7: "the LORD God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul"; and Job 33:4 "The spirit of God hath made me, and the breath of the Almighty hath given me life"; and, 2 Corinthians 3:17, 18 "where the Spirit of the Lord *is*, there *is* liberty. But we all, with **open face** beholding as in a glass the glory of the Lord, are changed into the same image from glory to glory, even as by the Spirit of the Lord".(emphasis added.)~~

~~136: A government mandate to wear a face covering is a restraint on Plaintiffs "Liberty" to worship God within breath as a manner of internalizing Spirit. Vermont Constitution, Art. 3 instructs us "That all persons have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings..." (n)o person ought to, or of right can be compelled to....contrary to the dictates of conscience... that no authority can....shall in any case interfere with, or in any manner control the rights of conscience..."It should be further noted, that science is coming full circle, where the quantum fields are commonly called God code²¹⁰ or Source Field²¹¹, and the fervor of public faith in allopathic medicine can be likened to a religious faith, a faith that is waning, as profit motives are revealed²¹² then reviled²¹³ for their insistence on a sick public.~~

~~137: Defendant Scott's Orders impermissibly burden Plaintiff's sincerely held religious beliefs. The Free Exercise Clause, incorporated or made applicable to the states through the due process clause of the Fourteenth Amendment, guarantees all Plaintiffs the right to freely exercise religion as they see fit. *Hamilton v. Regents of the University of California*, 293 U.S. 245 (1934), *Cantwell v. Connecticut*, 310 U.S. 296 (1940).~~

²¹⁰ THE GOD CODE explores a fascinating premise—that there is a tangible, verifiable, and universal message planted firmly within the foundation of life—a message that may provide evidence for a higher intelligence operating behind the scenes of the phenomenal world that we all take so much for granted. See Book: The God Code by Gregg Braden

²¹¹ In the modern mysteries of God, the 'Source Field' is known as the 'CLOUD', the unified field of energy that science understands as the quantum field or 'photonic field' of highly charged 'plasma' that carries the intelligence of the universe...<https://www.heartcom.org/SourceField.htm> and "One individual who lives and vibrates to the energy of pure love and reverence for all of life will counterbalance the negativity of 750,000 individuals who calibrate at the lower weakening levels." ~ from the decade-long research with millions of tests utilizing behavioral kinesiology, documented in "POWER VS. FORCE - The Hidden Determinants of Human Behavior" by Dr. David R. Hawkins , M.D., PhD in Psychology

²¹² Vaccine Epidemic: How Corporate Greed, Biased Science, and Coercive Government Threaten Our Human Rights, Our Health, and Our Children

²¹³ Confessions of an RX Drug Pusher by Gwen Olsen

~~138: The Establishment Clause prohibits excessive government entanglement with religion, including showing favoritism between non-religious and religious activities.~~

~~139: "There is no pandemic exception" to the Constitution. *Berean Baptist Church v. Governor Roy A. Cooper, III*, No. 4:20-CV-81-D, at *2 (E.D.N.C. May 16, 2020).~~

~~140: The First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."~~

~~141: "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. . . . Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny." *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460–61 (1958).187.~~

~~142: The First Amendment right to peaceably assemble is a fundamental right safeguarded by the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. *De Jonge, Id.* at 364-65 194 1 ANNALS OF CONGRESS 439 (1789)~~

~~Future Takings Without Just Compensation~~

~~143: The State's Orders are unconstitutional under Article 2 of the Vermont Constitution and the 5th Amendment of the United States Constitution, taking the Plaintiffs' private and personal property without just compensation.²¹⁴~~

~~144: Property rights are a fundamental right. In the present case the State of Vermont has and may again require the Plaintiffs to totally shut their businesses down for a period of time and has placed numerous, onerous requirements for reopening, without following a~~

²¹⁴ For just compensation for the Plaintiffs for their "temporary total regulatory takings", *Lucas vs. South Carolina Coastal Council* (1992) 505 US 1003, 112 SCt 2886, 120 L. Ed 2nd 798; For just compensation for the Plaintiffs for their "temporary partial regulatory takings," *Penn Central Transportation Co. vs. New York City* (1978) 438 US 104, 98 S.Ct. 2646; 57 L. Ed. 2nd 631;

legislative rulemaking process, under the pretense of a health emergency based on a completely faulty testing mechanism.

145. As discussed throughout this document there is a lack of any “compelling state interest” to justify the “severe burden” imposed on the constitutional property rights under the “strict scrutiny” test, and the State bears the burden of showing otherwise.²¹⁵

Freedom of Assembly & Freedom of Religion

146. If any aspect of the response to COVID-19 demonstrates the unequal protection under the law that Vermont has provided, it is related to freedom of assembly. Freedom of assembly is, as are many of the rights discussed in this complaint, a fundamental Constitutional right that should only be limited under strict scrutiny.²¹⁶ In this complaint, Plaintiffs put the burden of proof on the Defendants to demonstrate the scientific validity of their testing methods, especially the PCR tests, and their use of 37 cycles. The CDC, Vermont Department of Health, and the rest of the Executive branch of Vermont have issued numerous orders limiting or advocating against assembly for nearly every possible purpose except for the exercise of free speech. However, when BLM free speech rallies happened, there was little negative response and instead, positive accommodation and encouragement.

147. Religious freedom may only be abridged under strict scrutiny.²¹⁷ How then, can the State of Vermont openly permit assembly for camping and demonstrations²¹⁸ while limiting it for religious purposes? The answer is that they cannot under the Constitution or the Religious Freedom Restoration Act. These rallies and demonstrations saw nearly no one following the public health guidelines the State of Vermont was forcing upon all other citizens in every other area of life, but nothing was done to enforce it. We ask that the State demonstrate how, using real data, that allowing freedom of assembly in regard to an exercise of free speech somehow meets the standard of review for strict scrutiny but gathering to exercise religious rights does not.

²¹⁵ *Id* at 19

²¹⁶ *Clark v. Community for Creative Non-Violence*, 464 U.S. 1016, 104 S.Ct. 545, 78 L.Ed.2d 721 (1983), <http://cdn.loc.gov/service/ll/usrep/usrep468/usrep468288/usrep468288.pdf#page=8>

²¹⁷ *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014)

²¹⁸ <https://www.wcax.com/2020/08/31/black-lives-matter-protesters-still-camping-in-burlington-park/>

Overview of Constitutional Violations Not Discussed Elsewhere

148. This is our abridged list and partial discussion of issues not discussed elsewhere in the complaint. Plaintiffs welcome the opportunity to brief the Court more fully on these issues prior to trial or as needed:

1. The Freedom of Movement & Interstate Travel has been ignored - Fundamental Right to Travel:

a. *Shapiro v Thompson*, 394 US 618, 629-631 (1969)

i. ——— This Court long ago recognized that the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement. That proposition was early stated by Chief Justice Taney in the *Passenger Cases*, 7 How. 283, 48 U. S. 492 (1849): "For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States."

b. ——— *Williams v. Fears*, 179 U.S. 270, 274 (1900), quoted in *Schachtman v. Dulles*, 225 F.2d 938, 944 (1955):

i. ——— "[u]ndoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty, and the right, ordinarily of free transit from or through the territory of any State is a right secured by the 14th amendment and by other provisions of the Constitution."³⁵

c. ——— *Kent v Dulles*, 357 U.S. at 125.

i. ——— "[t]he right to travel is a part of the 'liberty' of which the citizen cannot be deprived without due process of law."

d. ——— In 1966 in *United States v. Guest*, the Court rearticulated that the Constitution did not explicitly mention the right to travel because: a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created... The constitutional right to travel from one State to another... Occupies a position so fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized:

e. ——— Plaintiffs businesses were adversely impacted due to prohibitions on travel that substantially interfered with this fundamental right. Further, demands of quarantine upon return, or entrance to Vermont on the presumption of 'guilt' of contagion violate due process and the right to travel. Upon information and belief, over 600k dollars were invested in permanent road signs informing, upon entrance to the State of Vermont, that travelers "must quarantine". This substantiates Plaintiffs stated concerns of a never ending state of Emergency:

f. ——— All clients were impacted by the stay at home quarantine orders which interfered with their fundamental right to travel even within the state:

2. ——— The Second Amendment, Right to Bear Arms has been interfered with:

a. ——— Gun stores were shut down or operation was limited thus infringing upon the right to bear arms:

b. ——— *District of Columbia v. Heller*, 554 U.S. 570 (2008) may be the closest decision related to this issue, but Plaintiffs believe intermediate or strict scrutiny to be the appropriate level of review here:

c. ——— During the business shutdown client's right to bear arms was substantially burdened by the arbitrary closure of stores dealing in arms:

3. ——— The Right to Work has been abridged:

a.——The right to engage in common occupations of life and earn a living has not, to Plaintiffs’ knowledge, been specifically ruled on in any existing case law within this Court’s jurisdiction though it has been referenced. We believe the reason for that is that it is so apparent that it simply has not been tested. Plaintiffs have been injured by business closures and being unable to pursue common occupations of life and earn a living. The damage small businesses vs the boon for big box stores cannot be perceived as an unintended consequence, or a constitutionally acceptable sacrifice.

b.——In *Butler v. Wolf* the Court analyzed this issue under several relevant cases and the 14th Amendment and noted that, “There is no question, then, that the Fourteenth Amendment recognizes a liberty interest in citizens—the Business Plaintiffs here—to pursue their chosen occupation. The Court then goes on to analyze the appropriate level of scrutiny to be applied in the instance of a violation of this right ultimately deciding that the State’s actions in designating some businesses as “life-sustaining” while others were not as arbitrary. While Plaintiffs believe the appropriate standard for generally denying the right to participate in the common occupations of life should be strict scrutiny, the question may be irrelevant since Defendant Scott’s actions were, without a doubt, arbitrary. Plaintiffs also cannot help but notice the parallels between the categorizations of businesses as “life-sustaining” and “non-life sustaining” and the Vermont standards of “essential” and “non-essential”.

c.——In discussing the Constitutionality of a legal alien’s right to work the Court in *Truax v. Raich*, 239 U.S. 33 (1915) stated, “It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the Amendment to secure. *Butchers' Union Co. v. Crescent City Co.*, 111 U. S. 746, 111 U. S. 762; *Barbier v. Connolly*, 113 U. S. 27, 113 U. S. 31; *Yick Wo v. Hopkins*, *supra*; *Allgeyer v. Louisiana*, 165 U. S. 578, 165 U. S. 589, 165 U. S. 590; *Coppage v. Kansas*, 236 U. S. 1, 236 U. S. 14.”

~~Count 9~~

~~The lowest standard of review available under an emergency declaration is intermediate scrutiny though higher standards may still apply.~~

~~149. Under *Blaisdell* the Supreme Court noted:~~

~~1. — Emergency does not create power. Emergency does not increase granted power or remove or diminish the restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the Federal Government and its limitations of the power of the States were determined in the light of emergency, and they are not altered by emergency. What power was thus granted and what limitations were thus imposed are questions which have always been, and always will be, the subject of close examination under our constitutional system.~~

~~150. Plaintiffs believe that this is critical in reviewing actions taken under an emergency declaration. Inherently, an emergency declaration allows an executive branch of the state or federal government to bypass certain legislative checks or balances. Plaintiffs contend that with these additional powers inherently come additional responsibilities in the form of heightened levels of scrutiny as applied to any actions taken under an emergency declaration. Without this extra level of protection, the balance of power will be thrown off.~~

~~151. While we do not accept that any order issued under an emergency declaration, without legislative checks and balances, should be reviewed under a rational basis, the State may argue that some do under the *League of Independent Fitness, et al. v Gretchen Whitmer, et al.*, Case No. 20-1581. This case could only be argued as relevant to our case as pertaining to specific executive orders abridging rights based on a rational basis review. Plaintiffs *Whitmer* apparently conceded that the issue tested in the case was to be reviewed on a rational basis, we disagree with that and intend to contest any right abridged under an emergency order reviewed on the truly toothless standard set for rational basis review under non-emergency orders. Rational basis review tests whether the government's actions are "rationally related" to a "legitimate" government interest. The Supreme Court has never set~~

~~forth standards for determining what constitutes a legitimate government interest. Only legitimate, compelling state interests are sufficient.~~

~~152. Under a rational basis review of an order, law, regulation, etc. the plaintiff bears the burden of demonstrating that no rational basis exists for a state action.²¹⁹ A state action taken based on false pretenses cannot meet the standard for a rational basis review of the action.²²⁰ We have demonstrated in this complaint, and will further demonstrate at trial that the actions of the Defendants within the State of Vermont are not based on facts.~~

~~Governmental interests are illegitimate if they are patently prohibited by the Constitution. The purpose of this requirement is to prevent the grave assault on individual rights that occurs when government action trammels those rights to achieve goals directly inconsistent with the Constitution. This requirement applies even in rational basis scrutiny.~~

~~153. Within the established framework for rational basis review several things become apparent. First, the Courts, particularly the Sixth Circuit, generally show extreme deference to elected officials and regulatory agencies in questions of social or economic policy. The Supreme Court went so far as to state that, “In areas of social and economic policy, a statutory classification that neither proceeds along suspect lines nor infringes fundamental constitutional rights must be upheld against equal protection challenge if any reasonably conceivable state of facts could provide a rational basis for the classification.” *FCC v. Beach Communications, Inc.*, 508 U.S. 307 (1993). It was using this reasoning that the Sixth Circuit decided *League of Independent Fitness, et al. v Gretchen Whitmer, et al.*, Case No. 20-158~~

~~154. *Beach* is an entirely different case than what we are filing and the *Whitmer* decision was made without the benefit of the Court being briefed on controlling precedence. The *Beach* decision was based entirely on a question of social/economic policy. There was no emergency~~

²¹⁹ “We have often noted that restrictions of this kind are valid provided that they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.”

Citing *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789 (1984);

United States v. Grace, 461 U. S. 171 (1983);

Perry Education Assn. v. Perry Local Educators' Assn., 460 U. S. 37, 45-46 (1983);

Heffron v. International Society for Krishna Consciousness Inc., 452 U. S. 640, 647-648 (1981);

Virginia Pharmacy Board v. Virginia Citizens Consumer Council, Inc., 425 U. S. 748, 771 (1976);

Consolidated Edison Co. v. Public Service Comm'n of N. Y., 447 U. S. 530, 535 (1980);

Clark v. Community for Creative Non-Violence, 464 U.S. 1016, 104 S.Ct. 545, 78 L.Ed.2d 721 (1983),

<http://cdn.loc.gov/service/ll/usrep/usrep468/usrep468288/usrep468288.pdf#page=6>

²²⁰ *Romer v. Evans*, 517 U.S. 620 (1996)

declaration, no legislative or judicial checks and balances on the separation of powers were being dealt with, and the issue was based on an [arguably] proper rulemaking. Contrast that to an executive branch that is bypassing democracy by issuing orders under an emergency declaration, without any rulemaking or even sensible process in place, and using that power in ways that are out-of-line with even the most conservative view of Ninth Amendment rights (as demonstrated by issuing rules governing things like how far apart we must sit from each other.)

155: Under no conceivable circumstance could these rules pass the legislatively defined rulemaking process as it stands. There has been plenty of time to do so given that this emergency has continued for nine months and Defendant Scott offers no hope of ending the State of Emergency at the time of this writing in Dec 2020. Defendant Scott has abused his authority and bypassed the will of the people and the legislatively defined processes for rulemaking. Given this, we reject, outright, that any orders issued under an emergency declaration should be reviewed on anything less than strict scrutiny. Our argument for this stems from the above cited *Blaisdell* and *Sinclair* cases:

156: In an emergency the rights of citizens are inherently abridged by nature of the action. The Supreme Court has specifically stated that “A law depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency ceases or the facts change,” *Chastleton Corp. v. Sinclair*, 264 U.S. 543 (1924), and also that “It is always open to judicial inquiry whether the exigency still exists upon which the continued operation of the law depends.” *Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398 (1934). No reading of these decisions could result in any conclusion other than that the Court expects the continuation of an emergency declaration to be challengeable on the facts and that, should the facts or knowledge regarding the circumstances under which the emergency was declared were to change then the emergency would necessarily cease:

157: Plaintiffs further argue that the State must bear the burden of proof. Any Executive branch acting under any declared emergency will have far greater access to information about the emergency than its citizens. It will further have resources and experts to demonstrate the need for such actions. The costs of developing a lawsuit including hiring and recruiting

experts is well beyond what is affordable for an average person and forcing that burden on citizens when the Executive branch is the one taking the actions would have a very disproportionate impact on people with less economic capacity to fight. It is further impossible to fight such an action without the necessary information to determine the accuracy of the premise, which is whether an emergency truly exists.

158: In briefing the Court in the *Whitmer* case, Plaintiffs believe the Court was not made aware of the *Blaisdell* and *Sinclair* decisions and they were not referenced in the decision. In a typical rational review case based on social or economic issues, *Beach* is clear in its position that the Court does not want to step into the position of the legislature. We do not believe any aspect of our case should be reviewed under the rational basis standard. In the case of an emergency declaration the idea that facts do not matter is simply a misstatement of the law under *Sinclair* and *Blaisdell* and would allow the executive branch to step into the role of legislature. If the *Whitmer* court were briefed on the precedence in place it would have become clear that the decision to remove the factual considerations from the case runs afoul of existing precedence.

159: Under the *Whitmer* decision this and any other emergency would be able to continue without end or challenge for no reason beyond the fact that the State Executive branch said so. That is being demonstrated every day in Vermont. Going back to the very beginning of our judicial system, the Supreme Court stated that, "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." Marbury v. Madison, 1 Cranch 137, 5 U. S. 163. In this case, the protection of law can only be challenged through the demonstration that the "facts" the State has used as a foundation for their actions are false. The Court, in its wisdom realized this and gave us the precedence set in *Blaisdell* and *Sinclair* to ensure justice could be done.

Impact of Allowing Rational Basis without Review of Facts

160: As discussed, we do not believe that a rational basis review of orders issued without the legal and Constitutional protections afforded by the traditional rulemaking process (i.e. rules made under an emergency declaration) should be evaluated under any less than strict scrutiny;

~~but at the very least, intermediate scrutiny. While we believe we have submitted sufficient evidence on the face of this complaint to demonstrate the arbitrary nature of the State's actions, a discussion of the impact of the Court's ruling needs to occur regarding laws this critical.~~

~~161: An emergency has been declared and rights curtailed as discussed throughout this document. Actions such as (but not limited to) arbitrarily determining which businesses can remain open and which must close are clear violations of the Fourteenth Amendment. While we firmly believe that an emergency declaration that allows for the curtailing of any fundamental right would inherently be subject to intermediate or higher scrutiny, these orders are unable to even meet the rational basis test since they were premised on false or misleading information²²¹ and issued under an emergency declaration.~~

~~162: The response to COVID-19 has destroyed our economy, possibly killed more people than the virus itself, and violated countless rights. This was done under emergency powers and was able to occur without question. When a state can continue to take actions without the burden of justifying those actions with facts and those facts cannot be questioned, we see the harmful results occurring.~~

~~163: If the Courts allow precedence to be set where a State may declare an emergency and it cannot be questioned based on the facts, then the citizens run the risk of Defendants ignoring the law and using emergency powers for the entire term of their tenure, and subsequent executive branches likewise, if elections exist by then. No emergency has been declared banning unhealthy food yet it is a leading cause of heart disease which kills far more people per year than COVID-19.²²² No emergency or state action has been declared banning transportation despite the increased number of highway deaths this year, and the roads appear to be practically empty when traveling. The Executive Branch has never taken action to lock~~

²²¹ *Id* at 1

²²² 647,000 Americans die from heart disease each year. Heart Disease Facts, CDC.GOV, (Last visited Aug 27, 2020) <https://www.cdc.gov/heartdisease/facts.htm>

~~down our nation despite the apparent dangers posed by the sun and other carcinogenic things in the environment though there are projected to be 606,520 cancer deaths this year.²²³~~

~~164: All these actions would be legal and nearly impossible to challenge in the Courts if not for the wisdom of the Supreme Court in *Sinclair* and *Blaisdell*. If this can be done in reaction to COVID-19 the same could be done for things like highway deaths, STDs, obesity, cigarettes, addiction, child abuse, or any number of other “public health issues” that cause far more damage than COVID-19. The result is a new America that was never envisioned by our founding fathers. A “new normal” completely abnormal to the experience of being human within humanity.~~

Count 10

~~Permanent injunction against future public health emergencies for more than 30 days or an extremely limited period of time without regular reauthorization by the legislative body should be granted.~~

~~165: To seek a permanent injunction, the plaintiffs must pass the four-step test: (1) that the plaintiffs have suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for the injury; (3) that the remedy in equity is warranted upon consideration of the balance of hardships between the plaintiffs and defendants; and (4) that the permanent injunction being sought would not hurt public interest. See, e.g., *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 311–313, 102 S.Ct. 1798, 72 L.Ed.2d 91 (1982); *Amoco Production Co. v. Gambell*, 480 U.S. 531, 542, 107 S.Ct. 1396, 94 L.Ed.2d 542 (1987). If the injunction takes place, then the legislative governing body would take up the issue of appropriate laws for public safety, allowing the public’s input.~~

~~166: The facts demonstrate that this emergency declaration and the orders promulgated from such declaration were done contrary to science. These facts must be reviewed under *Blaisdell* and *Sinclair* and provide a clear demonstration for the Constitutional necessity of injunctive~~

²²³ Cancer Statistics Center, AMERICAN CANCER SOCIETY, (last visited Aug.27, 2020),https://cancerstatisticscenter.cancer.org/?_ga=2.73444886.564826218.1597868910-1216452062.1597868910#!/

relief against future public health emergencies, for more than a brief period of time, without a check on the action such as repassing authorization at regular intervals in a legislature.

167: This is, to the Plaintiff's knowledge, a case of first impression. Never has the executive branch of a state government attempted to disregard the letter and spirit of the Constitution to this extent, under the guise of a non-proven emergency. What we have seen occur in Vermont and around our nation is not representative of living in a free republic.

168: While we recognize that there may on occasion be a legitimate public health emergency, and that under state police power the states are most equipped to protect their citizenry, allowing for an unending declaration of emergency without a check on such power is completely unconstitutional. An emergency declaration under various state and federal laws allows for the suspension of law, rights, and many other things held dear in our nation and simply cannot ever be allowed to be used, even briefly, as a tool of oppression.

169: As discussed elsewhere in this document, many fundamental rights have been suspended under the COVID-19 "emergency." The Supreme Court has held that these rights may not be abridged without meeting the strict scrutiny test. That test cannot be met here given the facts of the case. It is now left to the Court to clarify to the State that the State is barred from misleading the public, legislative branch, and the courts thereby ignoring the Constitution on those grounds.

170: While it is no longer discussed by the State, it bears noting that the premise behind the declaration of this emergency was "flattening the curve". Even the CDC has stated that it would never be possible to stop COVID-19 and that we needed to flatten the curve so our healthcare system was not overrun. Given that our Constitutional rights are sacred in this nation and that they should have only been limited in the narrowest possible way to achieve the [arguably] compelling governmental interest of preventing our healthcare system from being overrun, why have we dismantled the temporary emergency hospitals that were built when this started despite reopening?²²⁴ Defendant Levine already gave his answer to this when he stated that we all need to become accustomed to the "new normal..."²²⁵ Is this

²²⁴ Austin Williams, CDC's 'flatten the curve' graphic shows why social distancing amid coronavirus pandemic is necessary, FOX29, (Mar. 13) <https://www.fox29.com/news/cdcs-flatten-the-curve-graphic-shows-why-social-distancing-amid-coronavirus-pandemic-is-necessary>

²²⁵ <https://www.wcax.com/content/news/What-Vermonts-new-normal-might-look-like-570442121.html>

~~“new normal”—a permanent state of emergency where the Defendants place themselves above the Constitution, the Courts, and the state Legislature?~~

~~171: We submit that the Plaintiffs have been and will continue to be injured by the violation of their Constitutional rights, that injunctive relief is an appropriate remedy under the law;²²⁶ that no hardship would come to the State by granting permanent injunctive relief against further Constitutional violations, and that the public interest is best served by ensuring future actions are limited by the Constitution.~~

~~172: We leave to future legislative action the proper legal and Constitutional methods for properly dealing with emergency declarations as it is primarily a legislative question that should involve citizen participation. We believe those actions must be limited by the Constitution which clearly bars unending emergency declarations unsupported by facts.~~

~~Count 11~~

~~**Injunctive relief should be granted against any future enforcement actions by the State of Vermont against the implementation or enforcement of illegal or unconstitutional State emergency orders on Vermont residents and businesses as discussed throughout this Complaint.**~~

~~173: The Vermont Department of Health has adopted and continues to enforce the illegal and unconstitutional orders issued by the State of Vermont as discussed herein. Particularly relevant are the State’s orders related to the shutdown of businesses which was originally issued on March 24, 2020. This overreach of power was instituted at a time when Defendants Scott and Levine knew that the “vast majority of people recover from the new coronavirus”; They now know it is not as lethal as predicted, and current numbers hailed as evidence of virulence are incorrect as shown elsewhere in this complaint and will be demonstrated at trial. This order violated the equal protection of requirements of the 14th Amendment.~~

~~Count 12~~

²²⁶ Ex parte Young, 209 U.S. 123 (1908)

Damages should be granted for Plaintiffs in an amount of \$75,000.00 each or an amount determined appropriate by the jury pursuant to 42 U.S. Code § 1983.

~~174. At trial and as discussed throughout this document, Plaintiffs have and will demonstrate numerous violations of various legal and Constitutional rights. The Executive Orders deprive Plaintiff and all others who venture into the State of Vermont the denial of the most basic human and fundamental rights, including, but not limited to:~~

- ~~a the right to breathe unimpeded;~~
- ~~b the right to control one's movements in space in relation to other consenting and competent adults;~~
- ~~c the right to gather in groups of more than ten people, regardless of the location or the business or activity, or whether there are any health risks posed by those gatherings;~~
- ~~d the right to lawfully enjoy public spaces, including beaches and outdoor recreational facilities and playgrounds;~~
- ~~e the right to attend school;~~
- ~~f the right to work at one's lawful profession;~~
- ~~g the right to control the health care of their children²²⁷ and to decide what medical devices they are required to wear or have administered;²²⁸ and~~
- ~~h the right to worship according to the dictates of one's conscience.~~
- ~~i the right to be represented by lawfully elected representatives for all acts of law making, and to give input thereon, and witness the process thereof.~~

~~Under 42 USC 1983 Plaintiffs will be eligible for damages based on these violations.~~

Jacobson and Emergency Declarations

²²⁷ Fundamental integrity of family unit has found protection in the Ninth Amendment and is subject to intrusion and dismemberment only where “compelling” government interest arises and protecting a child from harm is requisite government interest. *In re S.*, 1978 OK 103, 581 P.2d 884 (Okla. 1978).

²²⁸ See ADDENDUM 2 TO AMENDED AND RESTATED EXECUTIVE ORDER NO. 01-20 mandating that children over 2 years old wear masks and distance themselves from others attached as Exhibit No. 5c

175: The State has²²¹ and most likely will rely on *Jacobson v. Massachusetts*, 197 U.S. 11 (1905) as controlling case law in this case. We would like to point out several key aspects of *Jacobson* to ensure proper application of the controlling law and to request clarification on aspects of the law not addressed:

176: Before addressing *Jacobson* specifically, it should be stated that no emergency was declared, nor were any fundamental rights abridged under an emergency declaration in that case. The Court in *Jacobson* ruled on a regulation that [arguably] did not infringe on fundamental rights in a majority of an entire state's population (it was a local rule). It is inconceivable to see how any part of the *Jacobson* ruling would constitute justification for a statewide emergency declaration that suspended the rights of individuals at the whim of a state executive branch without any clear end to such action:

177: The first item of note related to *Jacobson* is that it was decided in 1905 and arose from a criminal prosecution. As noted herein, medicine has changed substantially since that time. The *Jacobson* decision was also based on smallpox. Smallpox is a dangerous disease that is thought to date back to the 3rd century BC. According to the CDC the historic case fatality rate was approximately 30%. The smallpox vaccination was initially developed around the year 1800 and had been demonstrated effective for over 100 years at the time of *Jacobson*.²²⁹ Further, smallpox, unlike Covid 19, meets the Koch's postulates;²³⁰ *"In summary, an infectious agent can be considered to be a sufficient cause for a disease if it satisfies Koch's postulates. Failing that, it suggests that the infectious agent is a necessary, but insufficient, cause for a disease"*²³¹. This standard has not been met with Sars Cov2, along with issues discussed elsewhere regarding its validated and verified existence. This affects the validity and effectiveness of testing, and additionally, the fatal flaws in PCR testing, as should be obvious:

178: COVID-19, by comparison, is nowhere near as dangerous—as noted elsewhere in this document the case fatality rate is likely under 0.26%²³²—and is, according to the CDC, new. While we will not get into a debate as to the novelty of this virus, the application of *Jacobson*, a criminal case based on proper legislatively passed state law regarding a

²²⁹History of Smallpox, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/smallpox/history/history.html>

²³⁰ https://www.medicinenet.com/kochs_postulates/definition.htm

²³¹ https://en.wikipedia.org/wiki/Koch%27s_postulates

²³² History of Smallpox, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/smallpox/history/history.html> See Page 43

legitimately dangerous and well-known disease, to the current situation with COVID-19 does not serve as justification for the actions taken by Vermont's executive branch.

179: The language of the *Jacobson* ruling indicates that the needs of a small minority should not control the rights of the vast majority. The Court actually states, "*We are unwilling to hold it to be an element in the liberty secured by the Constitution of the United States that one person, or a minority of persons, residing in any community and enjoying the benefits of its local government, should have the power thus to dominate the majority when supported in their action by the authority of the State.*" As noted in the facts above and attached documents, the emergency declaration in Vermont occurred when only two "cases" were present. Since then it has become an established fact that COVID-19 presents very little risk to a majority of the population and a substantial risk to very few. The response to COVID-19, however, is impacting everyone which was clearly not the intent of the Court in *Jacobson*.

180: The Court in *Jacobson* also addressed the issue of a vaccine ordinance being a political question. The *Jacobson* Court states, "These offers, in effect, invited the court and jury to go over the whole ground gone over by the legislature when it enacted the statute in question... the defendant did not offer to prove that, by reason of his then condition, he was, in fact, not a fit subject of vaccination..." This case differs substantially in that regard as we have included substantial proof with this filing that the actions taken by the State of Vermont are not justified by data and will show further evidence validating our position throughout this case.

181: The case at hand also differs in that no legislation passed at the state level has given the Governor (Defendant Scott) or Department of Public Health authority for a never-ending emergency declaration that is based on ever-changing standards allowing for the indefinite bypassing of numerous state laws and federal Constitutional rights. While we will not here debate whether there were grounds for an emergency declaration in March, we do not see anything in the *Jacobson* case or elsewhere that would suggest an unending emergency declaration for a virus similar to the flu or pneumonia is a legal exercise of power that should not be reviewed by the courts. Passing on this case as a political question leaves the people of the State of Vermont without any legitimate form of recourse.

~~182: In *Jacobson*, the issue was based on a single individual refusing a fine for a local regulation about an established vaccine. The ruling in this case did not even require Jacobson to get the vaccine -- only to pay the fine. The Court did, however, state,~~

~~1. —“Before closing this opinion, we deem it appropriate, in order to prevent misapprehension as to our views, to observe -- perhaps to repeat a thought already sufficiently expressed, namely -- that the police power of a State, whether exercised by the legislature or by a local body acting under its authority, may be exerted in such circumstances or by regulations so arbitrary and oppressive in particular cases as to justify the interference of the courts to prevent wrong and oppression.”²²³³~~

~~183: The *Jacobson* Court spent substantial time in the ruling noting that this ruling was not meant to bar future review of public health issues when Constitutional issues were involved. The last line of the ruling states, “We now decide only that the statute covers the present case, and that nothing clearly appears that would justify this court in holding it to be unconstitutional and inoperative in its application to the plaintiff in error.”~~

~~184: At this point we can definitively say that we are not dealing with strong, historic, and widespread scientific support that COVID-19 is anywhere comparable to smallpox. Rather we are dealing with misleading information being used to invalidate Constitutional rights under the guise of public health. If the court is unwilling to review action based on public health it is essentially rendering itself invalid. Public health is viewed as encompassing everything from obesity, to drugs, to racism, to suicidal despair. Should the court allow a racially discriminatory state law under the theory that it is somehow a remedy to a public health issue? Of course it should not and neither should it use the cover of a political issue to avoid recognizing that a public health emergency declared based on flawed testing methodology and invalid science is an acceptable reason to ignore Constitutional rights.~~

~~185: The bottom line is that instead of citing *Jacobson* as precedent supporting the State’s position, an unbiased reading of *Jacobson* supports the premise that the Court must~~

²³³ *Jacobson v. Mass.*, 197 U.S.11(U.S. 1905)

invalidate this entire emergency declaration and all rules promulgated thereby. The actions taken by the Defendants are egregious. If their state of Emergency based on a fatally flawed test is allowed to continue, shutting out the legislative process, the voices of the legislature and the people, Vermont's way of life will never recover, the Constitution will be a relic of history, and who knows what 'laws' Defendant Scott will make next.

Specific Harms of Plaintiffs

186: Plaintiff Collopy was most harmed by the forced separation from her mother. For nine months she could not have in person visits, holding her mother's hand and providing the nurturing love that comes with touch. She and her mother had to endure the mutual discomfort of struggling with technology, shouting through an intercom, sitting outside in various weather conditions for a scheduled twenty minute visit. Meanwhile, staff caretakers were allowed to go about their lives as normal, attending and performing at social functions, shopping, being with family, and then, returning to work and being allowed to hold her mother's hand and attend to her needs.

187: Defendants never considered the thousands of real life testimonies from doctors around the world touting curative therapeutics. Had they done so, health consequences could have been greatly minimized and the last months of her mother's life could have been spent immersed in familial love and care. The destruction of avenue for familial love to be expressed by the Defendants is priceless. The policy of the staff coming and going and living their lives without the same scrutiny is without logic and merit. Neither the Defendants nor any amount of damages can bring that end of life back.

186: Additionally, Defendant Scott has severed the grandparents from their grandsons, preventing them from attending sporting events that mean so much to grandchildren and grandparents alike. Plaintiff Collopy was also not allowed to attend nephew's sporting events due to the same restrictions. These events were held outside, in fresh air, with enough room for people to distance themselves 50' or more, if truly necessary, which is under question. These rules were implemented even though Plaintiffs grandsons had statistically zero chance of getting ill, according to the Defendant's own data. The Plaintiff, being of sound mind and desiring the

~~inherent right to pursue happiness was hindered of doing so due to the unconstitutional work of the Defendants. These policies are currently being considered to continue throughout 2021.~~

~~187: Lastly, for Plaintiff Collopy, like many Vermonters, friends and family are put at odds. When the Defendants make false claims of Vermont deaths from Covid-19, false test results and the continuous barrage of fear tactics of "stay home, stay safe", "wear your mask, save lives", "a vaccine will be coming soon", and comments to the effect of how you will feel if you kill grandma, makes for potentially irreversible damage in the family unit, depending on your beliefs. Plaintiff Collopy does not believe these statements and views some of them as outright lies to Vermonters and the rest to the blatant refusal to listen to the data. These are not harms that even a judgment in the Plaintiffs favor can repair, the harm may be irreparable. Yet, a judgment in the Plaintiffs favor may offer protection for the grandchildren who will inherit Vermont, that they will have constitutional rights to enjoy as adults.~~

~~188: Plaintiff James R Hogue has an ancestral relationship to the war of Independence, as such, the constitutional rights they fought and died for, are especially noted for him, their violations even more so. Five of Plaintiff Hogue's ancestors took part in the War of Independence. Plaintiff Hogue is aware of the blood and treasure that were spent to gain our freedoms, only to see them discarded by those who are afraid of getting sick from a marketing device designed to sell a vaccine.~~

~~189: Plaintiff Hogue has pulmonary/vascular disease, emphysema, sinusitis and cancer, all of which are aggravated by mask wearing. The Plaintiff enters many businesses without a mask. State offices and co-ops refuse him. The state and the co-ops acting out of obedience to the Defendant's orders and mandates thus violate the Plaintiffs rights under the Constitution, the 1964 Civil Rights Act, and the Americans with Disabilities Act.~~

~~190: The right to peaceably assemble, guaranteed in the first amendment, is violated by the Defendant. Plaintiff Hogue is an actor who provides historical renditions to schools of Ethan Allen and has roles in local theatre productions, but the lockdowns and hysteria promulgated by the Defendants have caused a loss of loss of income and the loss of the Plaintiff J Hogues² opportunity to practice his vocation. Without regular exposure to the public, in public venues, that vocation is over.~~

~~191. Further undue emotional stress harm is endured as Plaintiff Hogue's newlywed wife, is now requesting that they, with his newly adopted son, leave Vermont altogether to escape the insanity, the fear mongering as perpetuated by the Defendants by and through his orders.~~

~~192. Plaintiff Peyton has a start up company, Hempfully Green with her partner to offer a natural building product that sequesters carbon, is essentially fireproof, mold and pest proof, toxin free, and lasts for centuries. As early adopters, Plaintiff Peyton and partner still need to do in person demonstrations, attend trade shows, offer workshops and other on site advertising to reach customers. 2020 was the year to do lots of outreach, travel to other states for construction and trade shows, but that is not possible with the Emergency Order, The business operates at a loss, and now seeks to unload and close. As a business start up, it did not qualify for relief.~~

~~193. Plaintiff Peyton has been especially harmed by the mask mandate. She has been verbally attacked for not wearing a mask; she has been ridiculed and prevented from voting for lack of a mask and subjected to public humiliation and treated with derision by the Putney Town Clerk John Johnson, when she was finally allowed to after returning to the polls a second time, and only then allowed to vote without any privacy.~~

~~194. She has been prevented from shopping at local co-ops, where they announce it is LAW that the shoppers wear them. No amount of explanation of the exceptions will sway these co-ops, of which Plaintiff Peyton has a membership. As a result of her inability to wear a mask, and her insistence to vote, which resulted in a big scene as the Town Clerk blocked her entrance to the polls, the local postmaster told her repeatedly ; " Everyone in town thinks you are a whack job". In a grocery store a man swore at her, and drew attention to her, calling her a "fucking idiot", and in a Burlington coop she was threatened with arrest for shopping with more than 6 foot distance between all shoppers. These have been extremely painful shaming experiences to endure.~~

~~195. Plaintiff Peyton considers breath the bridge to spirit, and she has an active daily religious experience of Jesus, Mary and the ascended masters. Plaintiff Peyton came into her understanding and relationship with Jesus in 1977, when she first was motivated to pray for help during the throes of a 24 hour kidnap by a gang in Dorchester, Mass. It was the miraculous events that freed her from that situation that initiated her experience of Jesus. It was also that event that makes mask wearing for Plaintiff Peyton an extreme difficulty, especially the cloth over the mouth. A PTSD experience of suffocation is impossible to overcome. Plaintiff Peyton~~

can tolerate a shield for short periods, but that is unacceptable at the State buildings, and Coops. It is uncomfortable and revealing to explain at every juncture why the mask is impossible for her to tolerate, and she prefers to keep her past private, and retelling the story is reliving it.

196: Plaintiff Peyton has been shunned and shamed, for no reason whatsoever, she pines for the community that she used to enjoy, and is fearful, terrified of the abuse of power the Defendants display. She has been censored by a number of organizations, her voice silenced.

197: When Defendant Scott announced he was going to extend the state of emergency until a vaccine came along, she organized seven informed Vermonters, and utilized the portals provided by Defendant Scott's website to talk with him about therapeutic preventatives for Covid and harms of the mRNA vaccinations. Each member of the group was to talk about an element of the problem. Even though the group was willing to be flexible and assemble at a moments notice to present the information to him, meeting at Defendant Scott's convenience, night or day, online on a zoom call, the request was ignored, and upon follow up phone calls, the secretary stated in an email that he would not meet with us. He had said he wanted more information, but our information was of no interest, only the interest of Pfizer is his concerns. Plaintiff Peyton has not been able to petition the Defendant for grievances or communicate concerns.

197: Plaintiff Peyton has prayed for and cringes at the harms coming especially to the youngest vermonters, the children, and especially those children locked away from abusive parents or in abusive households, no school to go to. She simply can't believe that the Defendant Scott has so cruelly left them alone with abusers. She sees that Defendant Scott is following orders of those with intent to destroy the United States as we know it.

199: Plaintiff Peyton has been removed from experiencing the joy of her eldest son's relocation to Burlington after living in Colorado, due to the state of Emergency.

200: Plaintiff Peyton chooses to exercise her Art.1 individual, inherent and unalienable right to decide what obtaining safety means with regard to her health. Plaintiff Peyton is not a believer in allopathic medicine, and sees great harms in it. Her experience of health is directly connected to her experience of Spirit, or religion.

201:—Plaintiffs further argue that the State must bear the burden of proof. Any Executive branch acting under any declared emergency will have far greater access to information about the emergency than its citizens. It will further have resources and experts to demonstrate the need for such actions.

202. Plaintiff Morningstar Porta is a single, once working mother of a special needs child who has experienced severe detrimental trauma, financial crisis, community shunning and medical neglect since August 2020. This has impacted her life more than anything else she's experienced, and is an amputee and survivor of childhood and adult domestic violence, which should say a lot.

203. Plaintiff Porta is a tradeswoman and small business owner that was not considered "essential", which cost her the loss of her business. She lost over 20,000 dollars over this period by not being able to fulfill the contracts she had lined up from being arbitrarily deemed "non-essential". Without any income she was forced to go on state assistance which really affected her pride as she's worked so hard to fine tune her skills and trade and build a reputation as a tradeswoman. So now Plaintiff Porta is on food stamps and on a Section 8 waiting list, which is VERY hard for her to accept. She is unable to work as much as she wants to due to no longer having child care for her special needs son.

204. Plaintiff Porta is a survivor of domestic violence and the mask affects not only her physical well being, but her emotional well being. As a survivor of domestic violence wearing a mask brings back horrible memories and feelings. Plaintiff Porta can't even wear jewelry or necklaces around her throat as those are sensory triggers for her.

205. Plaintiff Porta's son was in school at the Sustainability Academy in the Burlington School District. He was the only child in September with a mask exemption. Parents began to ask Plaintiff Porta how he was able to do that as they wanted to also get a mask exemption for their child. Plaintiff informed them of their rights about mask exemptions and the avenues she went through finding a naturopathic doctor as they have empathy and are more supportive of children with special needs, such as her son. After more children received mask exemptions Plaintiff felt treated unfairly as she was involved in PTO and an active volunteer at school where she could be involved and was no longer allowed to even enter the school.

206. Plaintiff Porta's son's naturopath sent an email a while back stating that she won't be able to renew the mask exemption if he went to another school because basically she was threatened to have her license taken away for providing too many exemptions. Plaintiff has been with her since her son was born. She is very worried about losing her. But good doctors are afraid also, of getting fines, of getting shut down.

207. Without Plaintiff Porta's ability to be involved, her son, with his medical mask exemption from his doctor, was restrained at his school, locked in a seclusion room over 15

times for not wearing his face shield (he is 6 years old and has an IEP). This has traumatized him and she has documented regression and PTSD from his doctor because of these tactics used on him.

208: While in "forced seclusion" Plaintiff Porta's terrified six year old son started hurting himself by banging his head against the wall and pulling his hair. He has autism and being alone and scared is the worst thing that could happen to him.

209: This resulted in the Howard Center having a behavioral interventionist getting involved. They listed on the papers that he was doing "self harm", which resulted in him being restrained. Plaintiff Porta's son came home one day and his 40 pound little body had bruises all over it and scratches too. He looked like he'd been beaten up. When Plaintiff Porta asked him what had happened, all he would say is that "Mr. Max puts me in the room". Nobody told Plaintiff Porta about this! Nobody called or mailed the seclusion reports, which is their policy to do! Then, all of a sudden, Plaintiff got all the reports in one mailing envelope. And, the only reason Plaintiff found out about this before receiving the reports is because the school nurse, the only person Plaintiff will speak well of there, called her and said that she wanted to let her know that had her sone had been in a seclusion room for now over 30 minutes. She felt that Plaintiff had a right to know. This is a six year old boy with autism, locked in a room alone, and terrified. So Plaintiff left work and rushed to school and took her son to the doctors for evaluation and documentation. Since then her son has regressed in a variety of ways. He now has a PTSD diagnosis as well and to this day we still deal with the trauma that this has caused. I do not feel safe sending him back to school.

210: Plaintiff Porta is unable to acquire child care for her special needs son that would allow me to go back to work, and receive desperately needed medical treatment for my skin graft.

211: Plaintiff Porta's son needs mental health support that is not available due to the Governor's restrictions: in person therapy, home visits, etc.

212: Plaintiff Porta lives in the old north end, which is considered full of art and music, or it used to be. Plaintiff used to host music parties for children in the neighborhood to come over and play instruments and be like a rock band or hula hooping and arts and crafts. She did this not only for her son to interact with other children, but to support other parents that need a break. This type of sharing child care and providing breaks for each used to be returned. Now parents

don't allow their children to come over and her son would only be allowed in a one person's home for a brief period of time if he masks.

213: Plaintiff Porta frequents a business down the street called JR's. JR's and other businesses as well were told that they would lose their liquor license if they let people in without a mask. A few weeks ago they started all of a sudden cracking down because somebody from the state recorded them and laid down the law. Plaintiff tried to get them to join the suit as JR's store was their only community and they'd be able to go in and my son could get a lollypop and I could chit chat for a few minutes with other adults and now that has also been taken away.

214: Plaintiff Porta's medical needs, due to no child care as well as her own mask exemptions and mental health challenges, have gone by the wayside. Plaintiff is an amputee and was receiving treatment to keep her skin graft healthy. She would regularly, almost every two weeks, have it drained, as it's very painful and swollen, and this would relieve the pressure for another few weeks. So that stopped in summer, so no draining and it's gotten considerably worse. Plaintiff finally got an appointment for a draining and had her shield on and her note and was told she needed to mask. She wanted to take the mask off during the drain because it really hurts. The doctor wouldn't come in the room and Plaintiff has worked with this doctor for years and he knows how bad her hand is and he knows that she's probably going to have to have this whole thing ripped off now and redone, but he wouldn't come in. So Plaintiff had to advocate for herself and called her ADA people to set up a protocol for when she comes and they'll come in their full PPE and Plaintiff will be able to not wear a mask. But Plaintiff is still afraid to go and hasn't gone since then as she's embarrassed and ashamed and she don't even know why. Maybe it's because they waste all this extra PPE and say things like 'now we can't use this room for 30 minutes', so they make it well known that you're a pain in the ass because you can't mask. So now Plaintiff's skin graft is dying and she is in extreme physical pain and may need serious surgeries that she cannot afford.

215: Plaintiff Porta and her son are now isolated from our community, school, doctors, mental health support, work, family, with no income or end in sight. Plaintiff's son has been shunned from their community as well because of his inability to wear a mask. Little things like grocery shopping have become traumatic.

216: Plaintiff Porta has been attacked physically from other citizens shopping because of our inability to wear masks, police officers had to spend time on this instead of preventing crime.

~~Plaintiff has been called names and shamed while just trying to buy milk and eggs with her son. Plaintiff was called a "killer" by one man who said he hoped that both she and her son got covid. The same man followed them to the parking lot saying they are killing people. Plaintiff wants you to imagine how that makes them feel to have that said to you. Plaintiff and her son were devastated by it.~~

217: ~~Plaintiff Porta's son is a social boy and misses people. When he tries to talk to them people just stare at them or tell them to back off. They can't go to the playground and if they do her son is harassed by the other kids as to why he doesn't have a mask on, or they run away from him, making him feel like he's bad or sick. So Plaintiff and her son don't leave the house, they've become agoraphobic and have NEVER been like this before.~~

218: ~~Plaintiff Porta is a strong resilient woman but watching Phil Scott read the Christmas Story in a beautiful setting, with his beautiful book and nice outfit just made her lose it. Does he know how many people were home alone spending their Christmas Eve scrolling through FB so they don't feel so alone? But, that's Plaintiff aPorta's and her son's life now. Defendant can have those nice things because he's not struggling to survive like we are. He can buy his family presents, maybe have a big roast and then sit there and read the Christmas Story to Plaintiff's son. Plaintiff felt so humiliated by this. The anger Plaintiff felt for him reading that story after what he's done to her family. Does he think that helped make it all better? Well, it didn't!~~

219: ~~Plaintiff Porta has lost friends to suicide. She's lost family and any small support she had because they are scared of getting "in trouble".~~

220: ~~Plaintiff Porta's special-needs son has not been allowed to have routine dental care because of his inability to wear a mask.~~

221: ~~Plaintiff Porta has lost all hope. Plaintiff has never contemplated suicide before. Plaintiff has never questioned bringing her child into this world, this horrible world. Now Plaintiff regrets even having him because of how he has to live and it's every day and it doesn't get better.~~

222: ~~It's been suggested that Plaintiff Porta go on medication. Plaintiff feels that this is not in her head, this is real. It's right outside her window, it's when she and her son go outside, to the grocery store. It's every time they go by the school and her son asks when it's going to be normal again. Plaintiff and her son don't see anybody, they have nobody.~~

223: ~~Plaintiff Porta's despair is so deep that she contemplates suicide and this is all because of the lockdowns and the shunning, and the destruction of their lives here in Burlington. Plaintiff~~

feels they no longer have a neighborhood, or a community. Plaintiff is dismayed that people are so willing to follow orders and are so frightened of the virus that they can't see the facts being ignored. Plaintiff deeply worries for her son's future.

224: Plaintiff Kathleen M. Tarrant is a musician. Besides raising her kids in VT--now in their 20's/independent--Plaintiff has always been employed as a musician, performance artist, church musician, accompanist, music director, music instructor and others. See: kathitarrant.com

225: Plaintiff Tarrant in mid-March was laid off from her main employer, the Trapp Family Lodge in Stowe, VT. Plaintiff was hired as a pianist 5+ years ago. Plaintiff was brought back in mid-June, but on account of the continued lock-down, received a reduction in hours and pay rate in early September. Plaintiff must not fail to mention The Trapp Family Lodge is/was reputably one of the more successful resorts in VT. Music has always been an important feature/amenity/attraction for guests staying at/frequenting the Lodge.

226: Plaintiff Tarrant was forced to teach online as most of her students could not/would not meet in person. Her main teaching location in Hanover, NH closed indefinitely around mid-March. Recently, the border crossing from VT to NH has been considered a 'problem' by Governor Scott, and since Plaintiff Tarrants in-person lessons are deemed non-essential, she can no longer teach in NH. She was running a successful studio two days a week at the Lutheran Center in Hanover, NH. To put it mildly, her small business has suffered a substantial loss of earnings. Finally, teaching music online is not the same experience as in-person, especially teaching voice. As a result, some long-time students have decided to discontinue lessons. Plaintiff has also found it increasingly difficult to attract/recruit new students in this way.

227: Plaintiff Tarrant states that due to COVID restrictions, church attendance is down. How this has impacted her ability to generate income and to find solace cannot be overstated. Churches have had to cut back on the number of services, weddings and funerals. Plaintiff considers this a violation of Article I of the US Constitution as it states: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

228: Plaintiff Tarrant feels that her Constitutional rights have been violated in relation to her ability/willingness to work. Article 15 of the US Constitution states: Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for

equal work. Being forced to wear a mask while performing when there is NO supported scientific evidence hampers my ability to work optimally and is another example of fraud/government overreach/interference.

229: Plaintiff Karen Eddings harm came from when she retired at the age of 67 after a 45 career in medicine and nursing and was getting ready to launch her self-published book. She was planning to self-promote her book focusing on her natural talents as a healer.

230: Plaintiff Eddings was excited to focus on body work and sound healing sessions in her home and use the Healing Arts Center in Chelsea for drum circles.

231: Plaintiff Eddings in February 2020 had some book promotion talks scheduled with sound healings.

232: Plaintiff Eddings in February began scheduling clients to come to her home for healing. Sadly, by March she was forced to cancel clients coming to her home.

233: In March Plaintiff Eddings scheduled events were cancelled regarding launching her book, and the town/state lockdowns began, forcing her to stay at home and people to stay away from her and each other.

234: Plaintiff Eddings has been depressed, is suffering financial disruption and finds herself drinking more alcohol since the unlawful and unconstitutional lockdown. She is a person who likes people, and likes getting together with people and that has completely stopped. She has become very isolated. She felt the need to do something and that is why I'm doing this.

235: Sadly, Plaintiff Eddings 28 year old daughters, who live in MA, won't come visit her or invite her to visit them since she won't wear a mask. Despite all the evidence that this is not necessary for healthy people and mask wearing is harmful and could be making people sicker, they refuse to listen. This unnecessary conflict has ruined their mother and daughter relationship. Plaintiff was very painfully alone at Thanksgiving, and Christmas, just like the Governor wanted. It was extremely depressing and heartbreaking for her.

236: Plaintiff Eddings daughters live in fear, in a survival mode, and all this has violated their trust in the Plaintiff and that's very painful to live with.

237: Some in Plaintiff's Eddings town know how she feels and choose to ignore her. She is being shunned, even though these people are wearing scarfs, bandanas or any other little covering that is not correctly worn, is constantly being fussed with and not maintained in a sanitary way. Yet, these people are allowed to enter a variety of facilities under this guise and

~~Plaintiff is not. Plaintiff finds it very difficult to go into stores and still see how incorrectly people are wearing their masks, knowing that their efficacy against minute particles of any virus will not be stopped by what they're wearing, and in fact, may be causing them more harm.~~

~~238: Plaintiff Eddings, years ago, worked in an ICU and had to get fitted for a mask against TB. I worked with TB patients back in the 70s. Plaintiff knows, as do people in healthcare know, that a mask has to be fitted correctly to the person or it's completely worthless.~~

~~239: Plaintiff Eddings knows that in healthcare, of course, sometimes you need to wear a mask. The reason is mainly to keep secretions from the patient from flying into your mouth, nose, or eyes while flushing out wounds, or suctioning a patient, for example. Plaintiff chose to wear the mask under those conditions as she didn't want patients' secretions, blood or sputum in her mouth or on her skin. Plaintiff states that is the main reason nurses and doctors wear a mask when around sick or injured individuals.~~

~~240: Plaintiff Eddings feels sabotaged as she has a lot of experience and a deep love of healing work. Plaintiff has a tremendous amount of energy and enthusiasm for getting people well. That's her whole passion in life, wellness. The best way to prevent any virus is to keep your immune system strong.~~

~~241: Plaintiff Eddings is an anti-vax mom and spoke out about it over 30 years ago. As a nurse she chose not to vaccinate my children. Plaintiff is against injecting toxins into your body, expecting them to keep you healthy. Plaintiff is terrified that her daughters will get the vaccine, if you can even call it that.~~

~~242: Plaintiff Eddings feels this needs to end. The forced isolation, social distancing when out in public and mask wearing is making our state/country sicker and without valid science to support this. It has divided the Plaintiff's family and she has to live every day with the pain and isolation from that. Plaintiff does not see any reason to be stuck at home when she has all these talents that could be helping people. Plaintiff's faith comes from the truth and once the truth is revealed, her family will hopefully be able to begin the healing process.~~

~~243: Plaintiff Matthew S. Sellers is a Therapeutic Massage therapist of 19 years and Internal Family Systems Therapy Practitioner (IFS). In 2016 Plaintiff went back to work full time after being a stay at home father of 10 years and part time massage therapist.~~

244. Plaintiff Sellers began employment as a massage therapist at Massage Envy in Williston VT in April of 2016. Plaintiff was the most requested male massage therapist at Massage Envy for the last 3 years with an average of 100% bookings.

245. In May of 2019 Plaintiff Sellers rented his first solo office space in S. Burlington VT, in order to leave Massage Envy to pursue a private massage practice and begin holding therapeutic groups in IFS Therapy.

246. Plaintiff Sellers after ten years of being a full time father and following his families financial plan in February 2020 was financially one month away from being able to leave Massage Envy. As an employee of Massage Envy Plaintiff's starting pay was \$15.00 plus tips. That is one fourth of what a self employed massage therapist makes per hour. Plaintiff's family's financial struggles were very close to being settled.

247. Plaintiff Sellers was laid off from Massage Envy when on March 21, 2020 Governor Phil Scott ordered close contact businesses to cease operations. Sadly Plaintiff had to close his growing massage practice. The momentum of his start up business has not recovered since. Plaintiff's plans to begin group IFS sessions stopped and continue to be closed because of the unconstitutional ban mandate on my Right to Assembly. On June 4th Massage Envy Reopened. Plaintiff's regular client base there had been reduced to roughly 10%. Plaintiff was told 400 members had cancelled their memberships to the clinic. Plaintiff's income there had been dramatically reduced.

248. Plaintiff Sellers previously growing private practice lost 50% of his regular private clients due to fear of close contact spreading COVID-19. Growth of new clients in his private practice came to a halt.

249. Plaintiff Sellers states that in March of 2020 Governor Scott, with recommendations from Health Commissioner Levine, shut down his income and livelihood with little scientific information regarding the actual facts and data related to the Novel Corona Virus.

250. Plaintiff Sellers states that based on Hypothesis not founded in any scientific data, an unprecedented shut down of the economy, close contact business, scientifically proven hazardous use of masks have been mandated and the violation of Vermont's Constitution Article 1 and Article 20 has occurred.

251. Plaintiff Sellers, as of January 4, 2021, has had his unemployment insurance stopped and is awaiting two adjudication decisions.

252. Plaintiff Sellers family has used their savings and Plaintiff has been forced to reconsider his career goals at the age of 52. Therapeutic massage and bodywork provided him with an \$80 per hour career. Plaintiff is now faced with working for minimum wage in order to pay his mortgage.

253. Plaintiff Deborah Dailey lives alone in Vermont and normally visits her family, who all live out of state, about once a month from March through December. It has been over a year since she has seen any of them, due to the governor's interstate travel restrictions, and her inability to quarantine for the required time.

254. Plaintiff Dailey, in 2020 missed Easter, Thanksgiving, and Christmas get-togethers, as well as children's birthday parties and other family events.

255. Plaintiff Dailey has an elderly aunt living alone in Connecticut, who recently underwent surgery to remove a cancerous tumor, and also has a heart condition and other health issues. Plaintiff never knows when her time on this earth will be up. Plaintiff's Aunt very much looks forward to her visits and also whatever help she is able to give her with house and yard work. At the beginning of the shutdown, Plaintiff's Aunt had hopes of seeing her soon, but more recently she has become discouraged and depressed. Plaintiff's Aunt is proud and independent, and Plaintiff is the only person she willingly allows to help her. Plaintiff is also one of her few living relatives and the person whom she has designated to make medical decisions for her in the event that she is unable to make them for herself. This weighs heavily on Plaintiff Dailey, because she has been unable to monitor her condition, beyond trusting that what Plaintiff's Aunt tells her over the phone is true, and accurate. Plaintiff fears that one day she will receive a call that her Aunt is in the hospital, incoherent or unconscious, and she will not have enough background on her condition prior to that event to make wise decisions. Plaintiff feels that she has let her Aunt down by continuously telling her that maybe she will see her next month, hoping that the shutdown will be over by then, but knowing that the governor seems to want to continue it forever.

256. Plaintiff Dailey, due to the mandates of not gathering with anyone from outside our immediate households was forced to spend Thanksgiving and Christmas alone. Needless to say, this was very depressing.

257. Plaintiff Dailey had breathing issues as a child, which she was largely able to get under control later in my life. Plaintiff has a very low tolerance for any face covering that restricts air

flow. Plaintiff feels like she is suffocating after about fifteen minutes of wearing a mask. Yet she is required to wear one when out in public. Because of this, instead of a single long trip into a store, Plaintiff is making multiple short trips. As a result, she is coming in contact with a significantly larger number of people than she otherwise would have, which is counter to the intended result of the mask mandate.

258: Plaintiff Dailey regularly attended social events before the shutdown, as well as being involved in volunteer work. Now all of that is no longer possible, because opportunities to gather have either been canceled or Plaintiff is required to wear a mask. Plaintiff generally only leaves home for quick trips to do laundry or buy groceries and other necessities. There are people who she would regularly meet around town for a quick chat that she has not seen since March.

259: Plaintiff Dailey feels frustrated, sad, and angry. She is frustrated because, although she has no fear of contracting COVID, and many people she would normally associate with likewise have no fear, she has not been able to go about her life as usual over the course of nearly ten months. She is sad to see so many people walking around wearing face coverings that do not block any virus, and standing on the circles and lines on the floor to keep them an arbitrary distance from any other person. Especially depressing is the sight of young children, who are essentially no risk to either themselves or anyone else, being forced to comply by adults. Plaintiff is angry because, virtually overnight, the powers in government and the media were able to convince so many people that their fellow human beings were no longer deserving of love, respect, and physical contact, but were rather objects to be feared and avoided. Plaintiff continues to see terror in the eyes of those who will actually still make eye contact, when someone happens to get too close. This is so cruel and dehumanizing, especially since it makes no sense, having no basis in any real science.

260: All eight Plaintiffs have had their right to peaceably assemble violated. The First Amendment to the US Constitution; *“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”* The costs of developing a lawsuit, including hiring and recruiting experts is well beyond what is affordable for the Plaintiffs. The Executive Branch has placed the financial burden on these Plaintiffs. This impedes our Constitutional Right to petition.

Conclusion

261. ~~The emergency declaration and subsequent actions taken by Defendants Scott, Levine, and Donovan do not have, and have never had a rational basis. They are not based on valid science. The mere repetition of false science does not excuse the Defendants from the duty to ascertain the difference between repeating statements from the CDC and studying legitimate science. The Defendants have a legal duty to protect the rights and health of Vermonters. The Defendants put Vermonters in harm's way by refusing to implement basic well-known therapeutic preventatives (cures). It appears to the plaintiffs that Governor Scott *et al* never sought to look beyond an official, bureaucratic knowledge base for active medical expertise. Defendant Scott shut out our concerned voices. We tried to reach out through appeals for meetings, through legislature, through publications (censored) and otherwise.~~

262. ~~We have no way to reach these Defendants in their capacity as public servants, except through this Action. Defendants' broad actions that wipe away all that it means to be a Vermonter and an American can never be permitted, and such actions should never be taken again. People have died above and beyond alleged Covid deaths because of their actions. Family cohesion has been devastated, people have become enemies, families and businesses are suffering financially, and more people will die of despair because of Defendants' devastation of the Vermont way of life.~~

263. ~~The evidence submitted demonstrates that the State's actions are based on false and misleading data, incorrect science, and flawed testing methods, and are unconstitutional. Never in American history has a state so completely disregarded the Constitutional rights of citizens to this extent.~~

264. ~~Had the State followed the letter of the law, it would have worked to expand the number of beds and emergency equipment, kept that additional capacity in place, and removed it when the "curve" had been flattened. Such actions would have been narrowly tailored to both preserve our rights and protect the public.~~

265. ~~We ask the Court to exercise its role as a coequal branch of the government and fulfill its duty to discover the facts and to follow the rule of law. The actions taken by the Defendants in their official capacity as employees and servants of the People of Vermont and the State of Vermont are unconstitutional. We ask the Court to order the emergency declaration and all~~

~~actions taken subsequent to it be declared void, and to order that no further actions against the rights of the people of Vermont be taken in violation of the letter and spirit of the Vermont and US Constitutions:~~

~~The Plaintiffs notice the Court of our intent to amend this complaint, include co-litigants and for representation by attorney(s), and other amendments:~~

~~The Plaintiffs hereby demand a trial by jury on all issues so triable:~~

~~Respectfully submitted;~~

~~_____ Plaintiffs Pro Se~~

~~Jim Hogue pro se for JAMES R HOGUE,
Sally Collopy pro se for SALLY COLLOPY,
Emily Peyton pro se for EMILY PEYTON
Matthew S. Sellers pro se for MATTHEW S. SELLERS
Karen Eddings pro se for KAREN EDDINGS
Morningstar Porta pro se for MORNINGSTAR PORTA
Kathleen M. Tarrant pro se for KATHLEEN M. TARRANT
Deborah Dailey pro se for DEBORAH DAILEY~~