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The Honorable Ashley Moody
387 Russel Senate Office Building
United States Senate
Washington, DC 20510

October 26, 2026

Re: Coordinated Plot by the FDA and the Judicial Branch to Coercively or Covertly Expose Americans to Experimental Drugs and Federally Funded Research, and to Nullify the Due Process Clause—A National Security Threat

Executive Summary

Dear Senator Moody:

I write to you as my Senator and as Florida's former Attorney General to inform you that rogue political actors within the federal judiciary and Executive Branch agencies have forced our country into a post-constitutional form of government, inflicting irreparable harm on the American people.[1] Because this letter will be shared with the nation, please forgive the footnotes explaining legal terms with which you are already familiar.

I am an expert in the regulatory affairs of biomedical research and in the Fourteenth Amendment rights of those who participate in it. Over the past four years, I have consulted on more than thirty federal and state cases in which individuals were subjected[2] by governments, under threat of penalty, to unwanted federally funded medical research activities and required to prospectively waive their right to sue if injured by those activities, in violation of federal law, federal contracts, and the Due Process Clause. That work has led me to network with hundreds of lawyers and insiders nationwide, giving me firsthand knowledge of the conduct of rogue governors, the FDA, HHS, the CDC, and select judges in federal and state courts.

I write to inform you that these actors are engaged in a highly coordinated assault: overthrowing valid Acts of Congress and amending the Constitution outside Article V's

[1] Irreparable harm is injury that money damages cannot adequately repair after the fact. Courts treat as irreparable: physical injury, reputational harm, the complete loss of the right to work in a licensed profession, and the loss of a constitutional right. The Supreme Court has held that the loss of a constitutional freedom, "even for minimal periods of time," is irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

[2] "Subjected to" means individuals were placed under a government-imposed condition where their legal capacity for voluntary, informed consent was entirely bypassed or vitiated by coercive pressure (loss of income), psychological inducement (public harassment), or official deception (failure to inform citizens of their right to refuse under federal law and federal programs).

constitutional requirements. The instrument is the federally regulated biomedical-research industry—long forgotten by Congress and almost unknown to the country. By the end of this letter, no reader will be able to dispute three facts. First, judges in federal and state courts have amended the Constitution's due-process protections in operation. They have armed criminals to wage a proxy war on the American people by stripping victims of assault and battery of the right to sue—and by treating the crime itself as the victim's waiver of their due process guarantee, thereby placing this Nation under a post-constitutional form of government. Second, the federal judiciary is laying down a doormat for the World Health Organization to control this Nation through the Democrat-led Governors Public Health Alliance. Third, the Judicial Branch and federal agencies are corruptly permitting Americans to be stripped of their private health information, conscripted into covert biomedical experimentation, and forced to choose between their livelihoods and the waiver of two rights: the right to refuse an unwanted investigational drug injection and federally funded research, and the right to sue in court if compliance results in injury. This unprecedented attack on the American people will result in death on an unimaginable scale.

This letter outlines how Americans are under assault on three fronts:

(1) In 2018, the FDA proposed a new rule governing biomedical experimentation on humans, stating that the requirement for legally effective informed consent[3] would remain without exception. In January 2024, the FDA lied and unlawfully issued the final rule, 21 C.F.R. § 50.22, which permits covert experimentation on the American people without consent or notice of their involvement, <u>even when injury results from the research</u>. The rule violates numerous federal statutes, which offends the separation of powers, sanctions battery,[4] and invalidates Americans' due process rights.[5] In summary, the rule permits researchers to covertly expose humans to experimental drugs, biologics, and other testing articles, each of which could carry more than one billion potential adverse contraindications. These secret exposures can occur in schools, hospitals, and doctors' offices, and through coordinated efforts by governors and mayors across large populations—in the food supply, in the water, and by atmospheric delivery. It authorizes

[3] Legally effective informed consent is the standard that governs drugs, biologics, and devices not licensed by the FDA according to its labeling. Under 42 U.S.C. § 289, the Executive Branch is under a ministerial duty to protect the "rights" of the American people when they are involved with unlicensed products in federally authorized research. The protected right is the consent standard itself. The entity administering the product must ensure that the potential recipient is never placed under coercion, undue influence, or unjustifiable pressure to accept it or to participate in any related research activity; this pressure-free environment constitutes legally effective informed consent.

[4] Battery is the intentional infliction of harmful or offensive physical contact with another person without consent. Covert biomedical experimentation constitutes both civil and criminal battery in all U.S. States and Territories.

[5] Due process is guaranteed by the Fifth and Fourteenth Amendments. No person may be deprived of life, liberty, or property without it. "Property" and "liberty" include not only land and bodily freedom but also interests created by law—such as a professional license, public employment, access to public education, and unemployment assistance. When official rules give an individual a legitimate claim to those benefits, they cannot be taken without process. A public health policy that violates federal law or a fundamental right cannot be used as a procedural device to take a person's rights to public benefits. See *Perry v. Sindermann,* 408 U.S. 593, 597 (1972).

the wholesale theft of Americans' identifiable private health information and the collection of their biometric data and biospecimens, even if those biospecimens were collected 20 or more years ago. It also permits attaching that data, along with research information, to secret files, now dubbed by industry insiders as "shadow files," to be sold, shared, or stolen on the black market. That information carries civil, criminal, and reputational risks without due process protections. Hospitals can now covertly collect biometric data from every newborn under this FDA rule and create a medical file—hidden from the parents—that follows them for the rest of their lives. This is a gross betrayal of America's constitutional right to privacy.

Most concerning, the rule permits consent-free mass population research, including activities to capture this Nation's biomarker data[6]—data foreign governments **will use** to design bioengineered weapons aimed at particular traits and people groups using software-encoded mRNA technology.[7] Congress must immediately confront this national-security threat, which may already be in operation under the FDA rule.

> I am horrified at the thought of how the U.S. Army Medical Research and Development Command (USAMRDC) may be using this rule to harm the rights and safety of America's Armed Forces. That concern follows USAMRDC's failure to prevent the unlawful punishment of service members who refused participation in COVID-19 research activities, and the highly suspect miscategorization of deaths most likely attributable to those activities. SECWAR Hegseth should be warned about FDA's unlawful rule that DoD personnel may be currently operating under.

The Nation's healthcare workers, across every field of the medical industry, face the gravest risk of adverse effects from these secret experiments.

(2) The Judicial Branch has usurped and overthrown the constitutional authority of the coordinate branches. Sixteen lawsuits were filed in federal court against persons who, under threat of penalty, subjected others to unwanted injections of investigational drugs and to federally funded research. Federal statutes, federal contracts, and the Due Process Clause prohibit coerced participation in such activities. The federal framework regulating this conduct is unknown to the Nation and to Congress because HHS legal counsel and the Office for Human Research Protections, under the Assistant Secretary for Health, have

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[6] A biomarker is a measurable biological characteristic that signals a normal process, a disease process, or a response to a drug or other exposure. Example: blood glucose is a biomarker of diabetes; a specific BRCA mutation is a biomarker of cancer risk; an antibody titer is a biomarker of prior infection or vaccination.

[7] Advances in artificial intelligence and software-encoded mRNA technology now make it possible to design bioengineered pathogens aimed at particular genetic or other biomarkers—and thus at particular subpopulations—while leaving others unharmed. Such weapons could target the gut or the microbiome, or be shaped by diet, lifestyle, or environment. The most likely attack would be a two-pronged effort: first, suppress specific immune pathways to prepare a population for a second illness delivered as a virus or a synthetic vaccine response, causing disease. Every such attack would present as ordinary disease, not as a biological weapon. The question is not whether these events will occur, but when. The FDA is handing foreign adversaries this Nation's biomarker data on a silver platter. Because the rule permits mass-population research without consent, rogue governors have most likely already joined shared studies to collect private health data on Americans at scale.

effectively concealed it from the public by design, a practice that continues as of the date of this letter. Forty federal judges dismissed every case with prejudice under Rule 12(b)(6), despite the questions being matters of first impression in each court.

As a condition of receiving federal funding, the federal government placed the defendants under two distinct contractual obligations[8] requiring them never to pressure an individual to accept an investigational drug or to participate in federally regulated research activities. These contracts form the basis of the Executive Branch's compliance with 42 U.S.C. § 289, which requires the HHS Secretary to protect the safety and rights of Americans involved in unlicensed medical treatments and related research.

The judges took over the cases, violating the party presentation principle, and disregarded the defendants' obligations under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and their implementing regulations and executive agreements to issue an opinion permitting the very conduct federal law prohibits—nonconsensual administration of unlicensed medical treatments. They declined to permit discovery of the contracts that prohibited the conduct, declined to address federal preemption, declined to permit expert testimony on the defendants' obligations, and declined to decide whether the federal programs created an entitlement not to participate in the drugs or related research without penalty or loss of a benefit. Defendants had received federal funding precisely on the promise that they would not coerce use of the drugs or related activities, but the federal judiciary is denying victims their due process rights for the sole purpose of shielding persons such as Governor Newsom from civil liability. The judges then issued a Rule 12(b)(6) ruling authorizing defendants to engage in conduct they never claimed authority to pursue and never disputed—conduct that directly contradicted the plaintiffs' allegations supported by judicially noticeable documents, and that nullifies nearly eighty years of congressional action. These rulings have stripped away the protections Congress designed to protect the American people from unwanted or unsafe federal research activities and removed the Secretary's exclusive authority under federal law to determine when, where, and how the public is involved in such activities.

Most shocking to the conscience is the Ninth Circuit's holding that public employees and licensed professionals may be forced to accept experimental drugs even when those drugs **are known to "pose" a "significant threat of adverse effects" to life, liberty, or property.**[9] That holding invents a new common-law standard that violates federal law. It treats a state "legitimate interest" as authority to compel involuntary participation in dangerous activities the state is under federal contract not to compel, and it nullifies the Institutional Review Board requirement that administration of such drugs be the product of voluntary, informed consent without exception.

Senator, this is not a single egregious ruling. More than twenty district judges, and nearly as many appellate judges, have engaged in a coordinated course of conduct:

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[8] Federalwide Assurance Agreement and the terms of the CDC COVID-19 Vaccination Program, along with the CDC COVID-19 Vaccination Program Provider's Agreement

[9] *Brock v. City of Bellingham*, (Supreme Court Petition No. 26-268) (distributed for conference September 28, 2026)

overthrowing the federal government by refusing to acknowledge valid acts of Congress, the Executive Branch, and the Constitution,[10] and enforcing only their personal policy preferences—preferences shaped, in this author's view, by outside forces, for the sole purpose of giving the World Health Organization control of this Nation through rogue governors, as outlined below. Additionally, based on several factors, I believe the judges and defendants' counsel coordinated their responses to the pleadings, either directly or through a third party.

(3) Most troubling is the coordinated effort to render the Due Process Clause dead on arrival. Since the Founding, the Supreme Court has affirmed that the Constitution does not allow the government to deprive a person of life, liberty, or property without due process of law. When that deprivation occurs outside of consent, the right to sue for a remedy is "the alternative of force," "the right conservative of all other rights," and "one of the highest and most essential privileges of citizenship." *Chambers v. Balt. & Ohio R.R. Co.*, 207 U.S. 142, 148 (1907). The Supreme Court has long held that such a right can only be waived voluntarily, not by "coercion," intimidation, or deception, nor can such a waiver be presumed. (see below).

Yet more than twenty federal and state courts have, in effect, nullified the Due Process Clause. When one person tells another not to touch him, is touched anyway, and is injured, those courts hold that an Act of Congress bars the victim from obtaining a judicial remedy—and thereby strips the victim of the enumerated right to due process. The victim loses that right for one reason only: someone else committed a criminal act of violence with a product Congress has placed under civil immunity. Congress is forbidden to treat nonconsensual violence as a waiver of the victim's rights, and Congress has not done so. The courts are intentionally reading that waiver into the statutes by refusing to address the due-process rights the Constitution guarantees to victims of violence. Congress may shield a product from civil liability, but it cannot constitutionally authorize the taking of life, liberty, or property through nonconsensual violence involving liability-shielded products, because Congress cannot, by statute, extinguish rights enumerated in the Constitution. No court in this Nation's history, until the pandemic, had treated a victim's due-process right as forfeited because criminal conduct involving a liability-shielded product inflicted the injury. This is a new doctrine of tyranny—invented to nullify the Due Process Clause and to empower one American to inflict irreparable harm on another with complete impunity.

Worse, in most cases the federal government is paying the person who overrode consent and forcibly administered the injection—the act that constitutes battery against the American who refused it. **HHS is thereby funding criminal conduct**.

The Ninth Circuit goes further. It unconstitutionally holds that States and mayors may require this Nation's front-line heroes and licensed professionals to waive, in advance, the right to sue if a public-health policy injures them—even when that policy is "known"

[10] It is a matter of public record that each judge was presented with allegations that defendants were under statutory and contractual duties not to punish persons who refused the COVID-19 investigational drugs, and that the judges refused to accept those allegations as true for purposes of Rule 12(b)(6), or acknowledge or address those allegations in their opinions.

to pose a severe threat to life, liberty, or property—on the condition of maintaining their livelihoods.[11] In practice, the Ninth Circuit is arming governments with unconstitutional authority to force a police officer or teacher to play Russian roulette with their lives, with no remedy if the chamber lands on a live round. Refusal does not save them because the government can secretly inject them with impunity. That is a forced barter of a constitutional right for a public benefit—an unconstitutional condition.[12]

I ask you, Senator: if an American can be made to barter away the highest privilege of citizenship—the right to sue when injured—in order to enjoy a public benefit, or can lose that right when injured by criminal conduct, what force of law does the Constitution still possess? It has none; enumerated rights are mere promises our grandparents enjoyed, stolen from this generation by corruption at the highest levels of the Judicial Branch. Every public employee and licensed professional in the Nation is now subjected to a waiver of constitutional guarantees whenever a public official believes an investigational drug is beneficial—even when that official is barred by federal law and contract from ever including such drugs under a mandate. This occurs solely because federal judges are supplanting Congress and federal agreements with their radicalized agenda.

If *We the People* have no right to refuse a covert biomedical experiment, no right to keep our identifiable private health information private, no right to refuse an investigational drug that courts treat as posing a severe risk to life, liberty, or property, no right to exercise federally funded benefits without punishment, no right to refuse a waiver of constitutional rights as the price of a public benefit, and no right to a judicial remedy when injured by criminal acts, then this Nation is no longer operating under the Constitution. It has been subjected to a post-constitutional form of tyranny.

As outlined below, federal agencies, 40 federal judges, and 4 state supreme courts have placed the country under the tyranny of rogue political actors and criminals, not the rule of law. Over the past five years, governors and officials at the FDA, HHS, the Department of Justice, and the CDC have advanced that tyranny by deliberately failing to comply with and enforce federal law. I tell you the truth: the American Revolution began over far lesser stakes than the life-and-death questions discussed in this letter.

The indisputable conclusion of these actions, and others not mentioned, is that there is a coordinated effort to secretly or coercively inject the entire nation with mRNA drugs; to capture the nation's biometric and biomarker data through covert experimentation using collected biospecimens; to deny anyone the right to sue when physically or constitutionally injured; and to deny Congress its supreme authority over drug regulation.

For the first time in its history, the Supreme Court has left standing—by declining review—lower-court rulings that extinguish constitutional guarantees, bar suits for

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[11] *Garrity v. New Jersey,* 385 U.S. 493, 497 (1967) (holding that "[t]he option to lose their means of livelihood or to [waive constitutional rights] is the antithesis of free choice." Americans cannot be punished for refusing to waive their constitutional rights. However, the 3rd, 5th, 9th, and 10th Circuits have effectively ruled that such punishment serves a legitimate state interest, nullifying the Constitution on its face.

[12] "Even though a person has no 'right' to a valuable governmental benefit . . . there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests." *Perry v. Sindermann,* 408 U.S. 593, 597 (1972)

battery, override federal contracts, ignore the Supremacy Clause, invent terms to invalidate Acts of Congress, and render the Due Process Clause meaningless. Those denials raise a serious question: whether the Supreme Court is participating in the coordinated effort described herein to permit rogue actors to wage a proxy war on behalf of those who hate our Nation and its great people. What other view can be taken when it permits the Ninth Circuit, and its sister courts, to rewrite the Constitution without a single dissent?

Please forgive the length of this letter. The historic nature of these charges requires an indisputable record of legal fact, or they will be dismissed as hyperbole. Because I was raised to never discuss a problem without offering a solution, I offer, at the end of this letter, potential remedies you are uniquely positioned to pursue for the Nation's benefit.

End of Executive Summary

The Constitution and Congress Require That Use of Investigational Drugs, and Participation in Federally Funded Research, Be the Product of Informed, Voluntary Consent—and Forbid Any Coerced Waiver of Due Process

I. It Is a Violation of Federal Law to Coerce Injection of an Investigational Drug

The Ninth Circuit Court of Appeals, joining its sister courts, though made aware of the federal obligations outlined below, issued a substantive ruling under Rule 12(b)(6) that a state or local government may require a citizen to inject any investigational drug—including those that "pose" a "significant threat of adverse effect" to that citizen's life, liberty, or property—as a condition of working as a police officer, firefighter, EMT, teacher, healthcare worker, or in any other licensed profession. The Circuit further held that the government may also require a prospective waiver of the right to sue if the citizen is injured while complying with the health policy. By their legal nature, these rulings now extend to any public benefit, such as welfare assistance, public education, public healthcare, and any licensed profession, such as real estate professionals. Such rulings violate two hundred years of Supreme Court precedent and permit what Congress expressly prohibits—nonconsensual waiver of the right to informed consent to federally funded research activities and of the right to sue and defend in a court of law. For this reason, the courts refused to discuss the federal laws and binding contracts in their opinions.

A. The Federal Food, Drug, and Cosmetic Act (FDCA) Prohibits Investigational Drug Mandates.[13]

Since 1938, Congress has barred any person from introducing drugs into interstate commerce until the FDA approves them for a marketing application within the meaning

[13] See *Boysen v. PeaceHealth* (No. 25-1280), pp. 11-15, for historical background.

of 21 U.S.C. § 355(a).[14] Beginning in 1962, the Kefauver-Harris Amendments authorized the "investigational use"[15] of unapproved drugs to generate the evidence of safety and effectiveness required for approval. Congress provided for compassionate use for terminally ill or severely diseased persons' access to such drugs under the Food and Drug Administration Modernization Act of 1997. The Project BioShield Act of 2004, primarily designed to help respond to chemical, biological, radiological, or nuclear (CBRN) events, permits emergency-use authorization for broad access to unlicensed products under a nationally declared emergency.

Congress established a single unqualified rule for each statutory exemption from § 355(a): the administration of an exempted drug must be the product of voluntary, informed consent.[16] No exception to this requirement exists for conscious human civilians. In Project BioShield (EUA Statute), Congress authorized the Secretary to permit emergency use during a declared national emergency, but expressly provided that the Secretary "may not require any person to carry out any activity for which an authorization under this section is issued," including manufacture, distribution, administration, or receipt of the Emergency Use Authorized (EUA) product.[17] Notably, under each statutory exemption, Congress requires the use of drugs to be for research, or attaches a required research condition, placing the product's use under a "legally effective informed consent" requirement as discussed below.

As you are well aware, States are "precluded from regulating conduct in a field that Congress, acting within its proper authority, has determined must be regulated by its exclusive governance," and "[t]he State may not pursue policies that undermine federal law." *Arizona v. United States*, 567 U.S. 387, 399, 410 (2012). Supreme Court precedent makes clear that States cannot impose legal requirements that conflict with the obligations the FDCA places on regulated persons.[18] Therefore, under the principle of *Arizona*, because the Secretary is expressly forbidden to mandate an EUA product, States are impliedly preempted from requiring, as a condition of a § 355(a) exemption, what Congress itself prohibited—involuntary use of EUA products. Forty federal judges have outright refused to address whether the FDCA impliedly preempts states from mandating drugs exempt from 21 U.S.C. § 355(a), but hold, under Rule 12(b)(6), that they can. In other words, federal courts refuse to engage with federal preemption questions but judicially imply that states can override federal authority, thereby usurping Congress's constitutional authority

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[14] The FDCA prohibits the introduction, or delivery for introduction, into interstate commerce of any new drug unless an approved application is in effect for that drug. 21 U.S.C. § 355(a). A new use or a new formulation of an already-approved drug is subject to the same requirement when that use or formulation is not covered by the approved application according to the product's labeling. See 21 U.S.C. § 352 (drugs) and 42 U.S.C. § 262(a) (biologics or vaccines).

[15] This Act led to the first use of the phrase "investigational drug," meaning a drug used for a purpose it is not licensed for.

[16] See 21 U.S.C. §§ 355(i), 360bbb(b)(4), 360bbb-3(e)(1)(A).

[17] 21 U.S.C. § 360bbb-3(l).

[18] See *Mutual Pharmaceutical Co. v. Bartlett*, 570 U.S. 472 (2013); *Buckman Co. v. Plaintiffs' Legal Comm.*, 531 U.S. 341, 348 (2001); *Riegel v. Medtronic, Inc.*, 552 U.S. 312, 330 (2008); *PLIVA, Inc. v. Mensing, 564 U.S.* 604, 624 (2011).

to prohibit punishment of individuals refusing the administration of such drugs and related activities.

The Supreme Court spoke to § 355(a) when the Tenth Circuit granted terminally ill persons access to investigational drugs outside of express congressional authorization. In *United States v. Rutherford*, 442 U.S. 544, 555 (1979), the Court held that "Federal courts do not sit as councils of revision, empowered to rewrite legislation in accord with their own conceptions of prudent public policy." The Court added that "§ 505(i) of the [FDCA] makes explicit provision for carefully regulated use of certain drugs not yet demonstrated safe and effective," and that this "reinforces the conclusion that the exception for terminal patients that the Court of Appeals found in the Act's legislative history 'is plainly inconsistent with the statutory scheme.'" *Id.* at 559. The en banc D.C. Circuit reached the same conclusion in *Abigail Alliance for Better Access to Developmental Drugs v. von Eschenbach*, 495 F.3d 695, 713 (D.C. Cir. 2007): "Congress has prohibited general access to experimental drugs … and has prescribed in detail how experimental drugs may be studied and used by the scientific and medical communities." What Congress prescribed is that the administration of medical products exempt from 355(a) must be the product of voluntary, informed consent, without exception.

Neither States, federal contractors, nor federal courts may create an exemption from FDCA requirements that Congress has not recognized. Administration of a drug under a statutory exemption from 21 U.S.C. § 355(a) is lawful only if that administration is the product of voluntary, informed consent. Informed consent is a condition of the exemption itself. Violate the condition, and the person who administers the unlicensed drug has introduced it into interstate commerce in violation of § 355(a)—a prohibited act under § 331, punishable by incarceration and fines under § 333. By what authority, then, may a governor order a federally authorized provider to violate federal law and federal contracts to administer investigational drugs to persons the governor has placed under threat of penalty for refusal? The governor has none. That fact renders investigational drug mandates arbitrary and capricious: the governor has no power to make the drugs available under conditions of coercion, nor can he order providers to violate their federal agreements to ensure "legally effective informed consent," as discussed below. This point will become relevant when the letter turns to the judicial corruption now occurring in the federal courts.

Notably: the first Emergency Use Authorization issued under Project BioShield was in 2005, for anthrax vaccine to be administered to military and civilian personnel. Complying with federal law, the Secretary required, as a condition of that authorization, that potential recipients be informed that: "Refusal may not be grounds for any disciplinary action under the Uniform Code of Military Justice. Refusal may not be grounds for any adverse personnel action. Nor would either military or civilian personnel be considered non-deployable or processed for separation based on refusal of anthrax vaccination. There may be no penalty or loss of entitlement for refusing anthrax vaccination."[19] The anthrax vaccine was classified by the FDA as investigational, unlicensed, and not approved under 21 U.S.C. § 355(a)—exactly the same legal status as

[19] https://www.federalregister.gov/d/05-2028

the COVID-19 investigational products. What changed in the law that suddenly permitted the Biden administration and senior Pentagon leadership to harm thousands of military heroes or to threaten civilian workers? Nothing. It was old-fashioned corruption, deliberately concealed by the Judicial Branch for years, and which HHS legal counsel continues to cover up behind the scenes as of the date of this letter—conduct of which I have personal knowledge.

What change in law permitted thousands of persons, contractually acting under the Secretary's authority, to punish citizens for refusing COVID-19 investigational drugs? Nothing other than judges in the Judicial Branch covering, concealing, and denying due process rights to those suing over such violations. If Congress prohibits the Secretary from mandating the use of EUA products, then it is well established in constitutional law that persons acting under the Secretary's authority are likewise prohibited from mandating such use. Under each EUA, those persons are listed as Emergency Response Stakeholders and Providers.

B. The Executive Branch Contractually Binds States from Mandating Investigational Drugs.

After the Tuskegee syphilis study[20] was exposed in 1972, Senator Edward Kennedy convened hearings in 1973 on human experimentation in the United States.[21] The testimony and subsequent official investigations documented a pattern of human rights abuses on a grand scale. Americans were subjected to whole-body radiation experiments; the administration of radioactive iodine to a newborn's thyroid gland; deliberate releases of radioactive materials that contaminated surrounding communities, including water supplies; covert injections of live cancer cells into female prisoners; infection of prisoners with malaria under coercive conditions; and the feeding of hepatitis-contaminated fecal extracts to institutionalized children with intellectual disabilities, among hundreds of other human rights abuses. Vulnerable populations were pressured into unwanted experimentation on themselves and their loved ones. These were not isolated excesses but systematic practices directed at people who could not meaningfully refuse.

In 1974, Congress enacted the National Research Act,[22] requiring that Institutional Review Board (IRB) authority govern such experiments moving forward, based on compliance with the "Common Rule" (45 C.F.R. Part 46). Congress codified these protections in 42 U.S.C. § 289, placing the Executive Branch under a ministerial duty to protect the "rights" of the American people when involved in medical research activities funded or authorized by the federal government.

> The right is known as "legally effective informed consent." That consent standard is unique to drugs, biologics, and devices not licensed by the FDA, according to the product's labeling, and requires that potential participants

[20] The Tuskegee Syphilis Study was a 40-year medical study conducted by the U.S. Public Health Service from 1932 to 1972 that deliberately withheld treatment from impoverished Black men with syphilis to observe the natural progression of the disease. A human rights tragedy funded by the federal government.
[21] U.S. Government Printing Office, Quality of Health Care — Human Experimentation, 1973: Hearings before the Subcommittee on Health of the Committee on Labor and Public Welfare.
[22] National Research Act, Pub. L. No. 93-348, 88 Stat. 402 (July 12, 1974) (H.R. 7724, 93d Cong.).

never be subjected to external pressure to accept the administration of investigational medical products, including "coercion," "undue influence," or "unjustifiable pressure."[23] Pressure to accept administration of such a product—whether positive (e.g., financial reward) or negative (e.g., employment termination)—violates the consent standard enacted to protect the rights of the American people.

Research[24] was intentionally and broadly defined as any activity designed to contribute to generalizable knowledge about a product, process, activity, or federal program. That definition encompasses formal invasive clinical trials as well as non-invasive studies in which college students review medical charts to determine treatment outcomes. It also incorporates Congress's requirement that the Secretary establish conditions for monitoring adverse events of EUA medical products.[25] Thus, the administration of such drugs is subject to the legally effective informed consent requirement, which simply means no person can come under external pressure to accept the drug's administration, which is achieved by informing the potential participants of their lawful option to refuse.

Federalwide Assurance

In 2000, the Executive Branch established the Federalwide Assurance (FWA) program as the mechanism for complying with 42 U.S.C. § 289. Entities seeking federal funding, access to investigational medical products, or participation in cooperative federal programs involving human research must submit to the Office for Human Research Protections, under the Assistant Secretary for Health, a written assurance[26] that they will, at a minimum, comply with 45 C.F.R. Part 46 by obtaining legally effective informed consent and adhering to the principles of the Belmont Report.[27],[28] Those requirements allow no exceptions for conscious civilian humans. There are an estimated 30,000 entities under an FWA agreement, including all U.S. states and territories. No federal funding may be used to involve humans in investigational drugs or related activities unless an agreement is in place that the entity will comply with the consent standard. See 45 CFR 46.122 ("Federal funds administered by a Federal department or agency may not be expended for research involving human subjects unless the requirements of this policy have been satisfied").

In 2020, the CDC established a "cooperative agreement" (42 U.S.C. § 289) known as the CDC COVID-19 Vaccination Program. This program was designed to administer investigational COVID-19 drugs to the public under required research conditions. Participants in the program were required to provide their identifiable private information and to submit to research activities when receiving a COVID-19 investigational product,

[23] 45 C.F.R. § 46.116 et seq.; see Belmont Report, "Voluntariness."
[24] 45 C.F.R. § 46.102(l).
[25] 21 U.S.C. §360bbb-3(e)(1)(A)(iii)
[26] "…shall provide written assurance …" 45 C.F.R. § 46.103(a).
[27] 45 C.F.R. § 46.101(c), (i).
[28] The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. Belmont Report. Washington, DC: U.S. Department of Health and Human Services. 1979.

such as the Pfizer-BioNTech COVID-19 Vaccine,[29] for which Pfizer and the authorized provider were legally obligated to study the product's adverse effects in the human population, including six specific adverse effects.[30] That research requirement subjected the federal program to the legally effective informed consent standard via 42 U.S.C. § 289 and its progeny: 45 CFR Part 46 and the Belmont Report. Those duties were in addition to and separate from the informed consent requirements under the FDCA. Neither Congress, the legal community, nor the American people are aware of this federal framework—a result of HHS legal counsel's failure to ensure agency compliance with 42 U.S.C. § 289 and applicable laws and regulations during the COVID-19 pandemic, a failure they seek to keep concealed from the public.

Although Secretary Becerra, Rachel Levine, and Rochelle Walensky had ministerial duties to ensure no individual was subjected to such drugs under the required research conditions, they failed to fulfill their lawful obligations to protect the nation from unwanted investigational drug injections and related research activities under the CDC COVID-19 Vaccination Program. HHS legal counsel cannot be trusted to safeguard public safety or ensure 42 U.S.C. § 289 compliance.

Notably, all federal agencies, departments, and the military are bound by the legally effective informed consent requirement. See 45 CFR 46.101(a); 46.116. To reiterate, the CDC and HHS had a legal duty to ensure that no American was subjected to COVID-19 products the FDA classified as investigational drugs in connection with federally funded research activities. They failed to perform that duty, and Americans were harmed.

> **Legal Fact: Under current federal law, regulations, ratified treaties, and Executive Branch agreements, no person within the jurisdiction of the United States Government may be subjected to the administration of an investigational drug, or punished for refusing such a drug. No person operating under an FWA contract, or acting on the federal government's behalf, may issue such a mandate. No person may promote an investigational drug as safe and effective for its unapproved use. See 21 CFR 312.7(a).**

Section III below outlines how the federal judiciary is subverting Congress's known will regarding investigational drug mandates.

II. The Judicial Nullification of the Due Process Clause

Under the Fifth and Fourteenth Amendments, no American can be deprived of life, liberty, or property without due process of law. When deprivations occur, the right to sue in court for judicial remedy is the "highest privilege of citizenship," "the alternative to force," and "it is the right conservative of all other rights," lying "at the foundation of orderly government." *Chambers v. Baltimore & Ohio R.R. Co.*, 207 U.S. 142, 148 (1907).

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[29] "Pfizer-BioNTech COVID-19 Vaccine" is Pfizer's formal name for its investigational drug under Investigational New Drug Application 19736. "Vaccine" does not denote the drug's legal status or indication. The FDA's inclusion of the word "vaccine" in an investigational drug's formal name was deception of the highest order.

[30] See any EUA for Pfizer-BioNTech COVID-19 Vaccine "Conditions of Authorization."

The right is deeply rooted in our Nation's history, stemming from King John affixing his seal to the Magna Carta in 1215 AD, stating that "*To no one will we sell,* ***to no one deny*** *or delay, right or justice."* The U.S. Supreme Court has grounded that right in the Privileges and Immunities Clause of Article IV and, under the Fourteenth Amendment,[31] the Petition Clause of the First Amendment, the Due Process Clause of the Fifth Amendment, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment. See *Christopher v. Harbury*, 536 U.S. 403, 415 n.12 (2002).

The Supreme Court requires that a waiver of such a right be "voluntary, knowing, and intelligently made," (*D.H. Overmyer Co. v. Frick Co.*, 405 U.S. 174, 185–86 (1972)); "an intentional relinquishment or abandonment of a known right," (*Johnson v. Zerbst*, 304 U.S. 458, 464 (1938)); and "the product of a free and deliberate choice rather than intimidation, **coercion**, or deception," (*Berghuis v. Thompkins*, 560 U.S. 370, 382–83 (2010)). Courts "do not presume acquiescence in the loss of fundamental rights." *Zerbst*, 304 U.S. at 464. Most recently, *Janus v. AFSCME*, 585 U.S. 878, 930 (2018), held that continued participation in a public employment arrangement is not consent: a waiver of constitutional rights "cannot be presumed" and must be "shown by 'clear and compelling' evidence" of voluntariness. The Court has protected such rights from erosion through administrative actions, stating that "what the state may not do directly it may not do indirectly." *Bailey v. Alabama*, 219 U.S. 219, 244 (1911). A "procedural device" that "must necessarily produce a result which the State could not command directly" is likewise forbidden. *Speiser v. Randall*, 357 U.S. 513, 526 (1958).

The Supreme Court has never permitted states to condition public benefits (e.g., public employment, licensed profession, education) on a waiver of constitutional rights. "Even though a person has no 'right' to a valuable governmental benefit . . . there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests." *Perry v. Sindermann,* 408 U.S. 593, 597 (1972). See *Frost Trucking Co. v. Railroad Commission,* 271 U.S. 583, 593–94 (1926) ("A State cannot impose conditions which require the relinquishment of constitutional rights. If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all."); *Garrity v. New Jersey*, 385 U.S. 493, 497 (1967) ("The option to lose their means of livelihood or to pay the penalty of self-incrimination is the antithesis of free choice."); *Lefkowitz v. Turley*, 414 U.S. 70, 83 (1973) ("A waiver secured under threat of substantial economic sanction cannot be termed voluntary."). No government may compel an involuntary waiver of constitutional rights by conditioning access to economic activity on the surrender of those rights.

Due process is what makes constitutional rights enforceable. If the government can take life, liberty, or property—or extinguish the right to sue—without fair notice, voluntary

[31] Justice Thomas, concurring in the judgment in *McDonald v. City of Chicago,* 561 U.S. 742, 805 (2010), traced at length the historical meaning of the Fourteenth Amendment's Privileges or Immunities Clause. Among the sources he examined was *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823) (No. 3,230), in which Justice Bushrod Washington, riding circuit, catalogued the privileges belonging to citizens of the several States. That catalogue included "the right to institute and maintain actions of any kind in the courts of the state." *Id.* at 551–52.

consent, and access to a court, the Constitution's remaining guarantees become unenforceable promises. That is why the right to sue and defend in a court of law is the "highest privilege of citizenship" because it secures all other rights.

Federal and state courts have established two novel mechanisms to extinguish the right to sue and to defend in court when another member of society deprives Americans of their life, liberty, or property.

1. Weaponizing Acts of Congress to shield acts of assault and battery.

You are well aware that murder, assault, battery, and theft cannot themselves supply the due process the Constitution requires when a person is deprived of life, liberty, or property. Please bear with this elementary discussion; it is precisely the direction in which courts are now driving the Nation. You also know that Congress has no constitutional authority to shield one member of society from criminal or civil liability for committing such acts against another person because doing so would take away the victim's constitutional guarantee of due process.

Nevertheless, more than twenty state and federal courts—including the Supreme Courts of Maine, Vermont, North Carolina, and Georgia—have held that the PREP Act or the National Childhood Vaccine Injury Act of 1986 shields assault and battery when covered products are involved, as measured against the State's constitution or state tort law.[32] These doctrines are novel and aberrant, foreign to the American constitutional tradition and Supreme Court precedent, and represent a violent assault on America from within.

The PREP Act denies an injured person the right to sue in state court, confines residual claims to a single federal forum, and extinguishes state-law tort remedies. The Supreme Court has spoken with clarity: "a cause of action is a species of property protected by the Fourteenth Amendment's Due Process Clause." *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982). Neither a person's property interest in a state-law tort nor their liberty interest in the right to sue and defend in a court of law may be taken through acts

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[32] Some examples include: *Parker v. St. Lawrence County Public Health Department*, 102 A.D.3d 140, 954 N.Y.S.2d 259 (N.Y. App. Div. 2012) (H1N1 vaccine administered to a kindergartener at a school clinic without parental consent. Parents sued for negligence and battery. The appellate court held that the PREP Act preempts all such state-law tort claims arising from the administration of a covered countermeasure, including those based on lack of consent.): *M.T. v. Walmart Stores, Inc.* (Kansas Court of Appeals, No. 125,151, Apr. 28, 2023) Pharmacist at Walmart administered a COVID-19 vaccine to a 15-year-old minor without parental consent. Mother sued for battery, negligence, invasion of privacy/parental rights interference, consumer protection violations, and punitive damages. The court held that the PREP Act's immunity applies to all claims causally related to the administration of the covered countermeasure, including those based on failure to obtain parental consent. All claims were dismissed.); *Politella v. Windham Southeast School District*, 2022 WL 18143866 (Vt. Super. Ct. Dec. 28, 2022), aff'd, 325 A.3d 88 (Vt. 2024) (Child vaccinated without parental consent. Court granted judgment on the pleadings, holding that claims related to and dependent on the vaccination fall within the PREP Act's preemption and immunity.); *King v. Venice Family Clinic*, 2023 WL 12120153 (Cal. Super. Ct. Aug. 8, 2023) (Unconsented-to vaccination of a minor. Demurrer sustained; the PREP Act preempts all claims concerning the alleged non-consensual administration.); *Goins v. Saint Elizabeth Medical Center*, 640 F. Supp. 3d 745 (E.D. Ky. 2022), aff'd in part and rev'd in part on other grounds, 2024 WL 229568 (6th Cir. 2024) (Battery and related claims against vaccine administrators/pharmacies held preempted by the PREP Act.)

of assault or battery. To do so would first require the federal or state governments to argue that such conduct is rationally related to the government's legitimate interest, and none have made that argument. Nor could they. That proposition is antithetical to everything this Nation stands for. The Constitution likewise precludes Congress from enacting legislation that has the effect of sanctioning assault or battery unless it convenes under Article V to amend the Constitution. However, the nation would revolt if such an amendment were put forth; hence the need for courts to silently do the dirty work for those currently overthrowing the Constitution.

> Waiver of the right to sue when injured requires the voluntary, knowing act of the right-holder, not the crime of someone else. Congress may limit liability for a product. It may not treat nonconsensual violence as the victim's waiver, and it has not done so. The courts reverse the order. They start with the immunity statute, treat the battery as the event that triggers it, and never ask whether the victim's right was waived. The criminal act becomes the procedure. The victim is left with the cost of the injury for life. That is not construction of a statute. It is an amendment of the Due Process Clause without an Article V convention, accomplished by implication. These novel rulings are atrocious and represent a direct assault on America's safety and rights and have been pre-planned by forces bent on destroying this nation from within.

Some examples include:

(1) *Happel v. Guilford County Board of Education,* 387 N.C. 186 (2025). The North Carolina Supreme Court held that the PREP Act does not preempt a state constitutional claim against a government but does preempt state tort claims arising from the nonconsensual injection of a covered countermeasure. In other words, the government may not commit battery against a citizen in North Carolina, yet a private person may inflict the same injury with impunity. That result is unconstitutional and sanctions violence. If a person holds a property interest in a state tort under *Logan*, supra, and a fundamental right to sue when injured under *Harbury,* supra, and such property and liberty interests cannot be taken without due process of law under the Fourteenth Amendment, then at what point did Emily Happel (mother) receive that process when deprived of her parental consent authority? She did not. The North Carolina Supreme Court weaponized the PREP Act against Tanner Smith, Emily's fourteen-year-old son, who was injected without his mother's informed consent—to strip them of their constitutional guarantee of due process when deprived of their liberty interests. "[T]he logical corollary of the doctrine of informed consent is that the patient generally possesses the right not to consent, that is, to refuse treatment." *Cruzan v. Director, Mo. Dep't of Health*, 497 U.S. 261, 270 (1990).

Justice Berger, Jr., in a concurring opinion in Happel addressing the constitutional claims, joined by Justice Barringer, refused to accept that the PREP Act may shield unlawful acts from civil liability under state tort law. He wrote: "[t]he government's reading of the Act appears to override state consent laws such that intentional torts may be cloaked with immunity," and that "[g]iven the fundamental principles articulated by Locke and echoed in *Glucksberg*, it is difficult to concede that the PREP Act confers immunity for outright wrongful acts." Justice Berger's instincts are correct. However, his

opinion lacks the historical understanding that the PREP Act cannot "confer[] immunity for outright wrongful acts" because Congress cannot enact legislation that deprives Americans of their right to due process involving acts of battery. That gap in knowledge allowed the North Carolina Supreme Court to judicially imply a meaning in the PREP Act that the Constitution completely prohibits. Justices Berger Jr. and Barringer deserve credit for acknowledging that unlawful conduct cannot be shielded from judicial review—more than the other five justices and far more than Justice Allison Riggs, who, in her dissent, fought hard to strip every North Carolinian of the right to sue those who commit assault and battery against them. Our Nation is being destroyed from within by those sworn to protect us.

(2) *Hogan v. Lincoln Medical Partners*, 2025 ME 22, 331 A.3d 463 (Me. 2025). The court held that administering a PREP Act-covered countermeasure to a child, despite the parents' documented refusal of consent, shields the provider from liability under the Act. The Supreme Court's refusal to review that case is an act of infamy. For the first time in U.S. history, the highest court in the land has left standing a ruling that completely strips Americans of due process guarantees, upending the Court's well-established doctrine that constitutional rights can be waived only voluntarily. The Court's failure to defend the Constitution is indefensible.

(3) *Sowders v. Summa Health System*, No. CV-2025-06-2826 (Ohio Ct. Com. Pl. Summit Cnty. Dec. 11, 2025) (McCarty, J.). The parents instructed the hospital not to administer the hepatitis B vaccine to their soon-to-be-born child, which the hospital documented in its orders. Hours after birth, the doctor knowingly overrode that refusal and ordered the covert injection of the infant with the prohibited drug. The child began seizing and died eight days later. The court held that the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-11(a)(2), barred the parents from pursuing their medical-battery and wrongful-death claims in state court. When did baby Willow's parents receive due process after unlawful conduct deprived them of the life of their child? They received none. The state courts buried baby Willow and her due process rights in the grave—subjecting her to second-class citizenship.

Battery is intentional, nonconsensual physical contact that the Due Process Clause protects Americans from suffering as a deprivation of life, liberty, or property. An act of battery cannot itself supply the process the Constitution requires before those rights may be taken. The principle is what matters, not the product being immunized. Congress cannot shield battery. Full stop. The threshold inquiry in the cases above is whether the victim voluntarily agreed to participate in the liability-shielded product. They did not. The PREP Act is therefore inapplicable because the Constitution guarantees Americans due process of law, and battery does not provide it. Congress cannot override a waiver of due process rights; it must be voluntary, given by the holder. The purpose of these rulings is to empower certain Americans to wage a proxy war against others with impunity, which the Supreme Court is allowing without explanation, and it must stop immediately because the harm is irreparable.

As a consultant, I can affirm that after the Supreme Court denied certiorari in *Hogan*, *supra*, covert injections of drugs covered by the VICP or the PREP Act have surged

nationally, which the federal government is funding. Lawyers are now asking how to sue for the resulting injuries. Tort lawyers, however, generally lack training in constitutional law and fail to press the due process argument.

> **Constitutional Fact: Congress may grant whatever immunity it wishes for the administration of a drug. Courts may not use that immunity to extinguish constitutional rights against nonconsensual conduct. Waiver of the right to sue in a court of law must be the product of a voluntary agreement, not deception. See *Berghuis*, supra.**

It must be noted that no judge, in any of these cases, analyzed whether Congress may grant immunity for battery in light of the American people's constitutional **guarantee of** due process. Justice Riggs could not write an opinion holding that the Constitution gives Congress that power without being mocked out of her robe. That is why every such ruling avoids the due process discussion. *Happel* came close, but failed to cross the finish line.

Because all nine Justices of the Supreme Court have refused to review any case involving the involuntary administration of covered products, the lower-court rulings now stand: once a person says no and is harmed anyway by a liability-shielded product, there is no court in which that "no" can be enforced. Victims of assault and battery have been completely stripped of due-process protections. The result is a de facto amendment of the Constitution and a repudiation of the Court's own precedent, accomplished by silence. All nine Justices have betrayed the American people and their oath to uphold the Constitution.

2. Federal courts confer authority on governments to condition livelihoods and public benefits on a waiver of the right to sue in a court of law.

For conciseness, this letter addresses only the Ninth Circuit's opinions, which the Third, Fifth, and Tenth Circuits have adopted in substance. The argument presented to the Ninth Circuit in multiple cases was straightforward: a State may not condition a benefit (e.g., public employment or access to a licensed industry) on use of a PREP Act-covered countermeasure, because administration of that product extinguishes the recipient's right to sue.[33] The condition is therefore an indirect, coerced waiver of a guaranteed right, impermissible under *Speiser, Sindermann, and Bailey*, supra. The Ninth Circuit answered that argument with a single word—"fails"[34]—and supplied no further analysis before extinguishing a right of access to the courts that has stood since 1215 AD.

However, that was more analysis than the Third, Fifth, and Tenth Circuits provided.[35] Now persons under those courts' jurisdictional authority may no longer refuse

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[33] *Brock v. City of Bellingham*, No. 26-268 (distributed for conference September 28, 2026), foreclosed under Curtis, see *infra*.

[34] *Curtis v. Inslee*, 154 F.4th 678 (9th Cir. 2025)

[35] Case citations will be supplied upon request. It should be noted that the judges in each circuit assigned to these cases are judges whose opinions are regularly overturned by the Supreme Court and/or en banc hearings.

a covered countermeasure without penalty. If the person accepts the product in order to keep a livelihood or public benefit, administration of the countermeasure extinguishes the right to sue for injury caused by the product or by activities causally connected to it. That extinguishment is not a legally valid waiver because it is not voluntary. The Supreme Court holds that consent extracted under threat of exclusion from a state-licensed livelihood is coerced and therefore cannot waive a protected right. See *Berghuis*, *supra*. Conditions that demand such a waiver are unconstitutional, and governments cannot enforce them through economic sanctions.

Senator, if the courts properly address this issue, no government may mandate the use of a liability-shielded product. Current drug mandates would therefore end in this Nation because they are all under federal immunity from civil liability. The political consequences for the governments issuing such mandates cannot justify the judiciary's refusal to decide the constitutional question before it. As an example, Governor Hochul is violating the Fourteenth Amendment rights of the Amish right now because she is punishing them for refusing to waive their right to sue in a court of law should they accept the administration of drugs the federal government has shielded from civil liability. The Amish are currently unaware of this Constitutional argument. Therefore, her mandates are an unconstitutional exercise of police powers irrespective of the religious freedom argument because she cannot use a vaccine mandate as an indirect means to waive the Constitutional rights of the Amish, nor any other American. Especially when the federal government is involved in funding the drugs' administration.

> Shockingly, no State, governor, mayor, or state official has ever argued in any court, in any case, or in any pleading that they possess the authority to mandate a covered countermeasure or that such a mandate serves a legitimate state interest. In other words, the Appellate courts cited below are issuing substantive rulings sua sponte without requiring full disclosure of facts to be developed in the record, shielding the argument from public criticism. Hence the Ninth Circuit's one-word analysis—fails. This is by design for the sole purpose of overthrowing the rights of the American people.

A State has no authority to condition public employment, education, welfare assistance, or a licensed profession on a waiver of the constitutional right to sue and defend in court—no matter what procedural device is used to extract that waiver. That principle should have ended sixteen federal cases. See *Janus*, *Frost, Garrity,* and *Lefkowitz*, *supra*. Until those in power confront the Judicial Branch's assault on America, licensed professionals, public employees, and others will be required to forfeit, in advance, the right to sue as the price of keeping their occupations or public benefits.

The PREP Act, the FDCA, and Investigational Drug Mandates

Separately, and only with respect to unlicensed products, the PREP Act contains an express preemption clause addressing investigational drug mandates. During the effective period of a declaration, no State or political subdivision may establish, enforce, or continue in effect, with respect to a covered countermeasure, any law or legal requirement that differs from or conflicts with a requirement applicable under the Act or the FDCA. 42 U.S.C. § 247d-6d(b)(8). The FDCA's informed-consent requirement is such a requirement.

A State mandate that conditions a livelihood or benefit on acceptance of a covered countermeasure subject to the statutory exemption in 21 U.S.C. § 355(a) therefore conflicts with that federal informed-consent standard and is expressly preempted under the Act's preemption clause. This also means courts cannot shield covert injections of investigational drugs, including all EUA drugs, under PREP Act immunity, because doing so would circumvent the Act's express preemption clause requiring adherence to the informed-consent requirement for administering EUA products.

Further, Congress requires the Secretary to "educate" potential participants "of the voluntary nature of the program." 42 U.S.C. § 247d-6e(c). Secretary Becerra failed in that ministerial duty. Secretary Kennedy has thus far declined to act on my recommendation that every PREP Act declaration be amended to provide that a person who mandates use of a covered countermeasure is not a "covered person" under the declaration. That amendment would protect the Nation's due process rights while maintaining the PREP Act declaration, and it would be a practical way to fulfill his ministerial duty to ensure the program's voluntariness. I say "maintaining," not that I believe it should be continued, but Pfizer, Inc. refused to introduce its mRNA drug into commerce without such protections and is guaranteed under a federal contract to remain under them until the contract's terms expire.[36]

III. The Judicial Branch's Subverting the Federal Government

To date, I have consulted in nearly thirty federal and state cases involving COVID-19 mandates. Sixteen of those federal cases were brought against governors (Newsom (CA), Inslee (WA), and Brown (OR)), mayors (including Karen Bass), state health agencies such as the Colorado Department of Public Health, and other state actors involving matters of first impression as discussed in this letter. No court was aware of the FWA, the CDC Program, or the legally effective informed consent standard for federally funded research activities, nor had it discussed how the PREP Act's express preemption clause prohibited the challenged conduct or implicated America's fundamental rights.

A. The Allegations: The allegations in those sixteen cases were narrow. They did not challenge a government's power to issue a vaccine mandate in the abstract. They were as-applied challenges only. Defendants were bound by Federalwide Assurance contracts promising never to pressure individuals to accept investigational drugs funded by the federal government. They were providers under the CDC COVID-19 Vaccination Program—a program itself subject to FWA and FDCA informed-consent requirements. The program required Americans to be informed of the drugs' risks, benefits, and alternatives, and that they could accept or refuse without cost, pressure, or penalty, regardless of their choice.[37] Under *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972), such rules of understanding provide Americans with a protected property interest in refusing without consequence, an interest subject to Fourteenth Amendment protection. It was alleged that the FDCA impliedly preempts States from mandating drugs exempt from 21 U.S.C. § 355(a). The PREP Act's express preemption clause independently preempts States from

[36] The Department of Defense contract with Pfizer will be supplied upon request.
[37] See *COVID-19 Vaccination Program—Interim Operational Guidance—Jurisdiction Operations,* October 29, 2020.

mandating covered countermeasures that are so exempt. And a State may not mandate a covered countermeasure when that mandate effectuates a waiver of the right to sue if injured.

B. The Disputes. Not one defendant claimed authority to mandate an investigational drug, or a product introduced under an Emergency Use Authorization; to compel participation in the CDC COVID-19 Vaccination Program; to coerce participation in research that requires legally effective informed consent; or to punish a person for refusing a PREP Act covered countermeasure. Because they did not dispute those allegations, they did not address any legal basis for issuing or enforcing such a mandate. They all claimed that the drugs were not investigational or somehow approved, despite judicially noticeable documents presented to the courts showing that all defendants were under a contractual obligation to the federal government to "conspicuously" inform the public that the drugs were unlicensed and unapproved by the FDA and were subject to an active investigational drug application process. Notably, no defendant denied they were under the federal contracts nor disputed that those agreements barred them from placing individuals under external pressure to accept the drug's administration.

C. The Rulings. More than forty federal judges refused to permit discovery into the alleged facts and to decide whether the FDCA impliedly preempts mandates for drugs exempt from § 355(a); whether the PREP Act expressly preempts such mandates; whether the CDC COVID-19 Vaccination Program independently prohibited them; whether that program was subject to legally effective informed consent under the FWA program; or whether state actors may mandate a PREP Act countermeasure that requires a prospective waiver of constitutional rights. They invoked the power of their robes, claimed that defendants had the authority to mandate the use of such drugs, and refused to engage with the question of federal supremacy, including active federal contracts prohibiting that very conduct. Each district and appellate judge dismissed the cases with prejudice under Rule 12(b)(6).[38] Then, each judge cited the others as support, though none cited federal law, regulations, contracts, or Supreme Court precedent. In other words, these judges are building doctrine on Rule 12(b)(6) by citing only each other's unsubstantiated opinions. You, more than any other Senator, should understand that such activity is completely prohibited under the Federal Rules of Civil Procedure and can only result from a coordinated effort at the highest levels of the Judicial Branch driven by outside influences—a threat to national security that requires investigation into these judges' actions.

On appeal, the Third, Fifth, Ninth, and Tenth Circuits took over. In violation of the party-presentation principle, they ruled the drugs were indeed investigational, but then shockingly held that defendants had authority to coerce acceptance of an investigational, unlicensed, or experimental drug, **an argument never advanced by any defendant nor briefed by the parties.**

To see the corruption plainly, let's look to the Ninth Circuit. In *Brock v. City of Bellingham*, No. 25-1070 (9th Cir. May 26, 2026), the court, relying on *Curtis v. Inslee*, 154

[38] Case citations will be supplied upon request.

F.4th 678 (9th Cir. 2025), held that a government may mandate any investigational drug even when it **"poses" "a significant risk of serious adverse effects"** and does "not prevent transmission," and that any argument of a right to refuse a liability-shielded product "fails."

Curtis is judicial tyranny, not an adjudication of facts. For the first time in its opinion, the Ninth Circuit *sua sponte* invented the term "clinically identical" to hold that if an investigational product is "clinically identical" to a licensed drug, informed consent is not required, invalidating the FDCA's informed consent requirement under 21 U.S.C. §§ 355(i)(4), 360bbb, and 360bbb-3. The FDA has licensed an estimated 19,000 drugs. Under that undefined phrase, every investigational product can be declared "clinically identical" to one of them—especially when the court refuses to say what the phrase means. The term appears nowhere in federal statute, regulation, or Executive Branch agreement. It has no legal meaning. Even I, an expert in this field, cannot contemplate what it means. It is nonsensical. The term sanctions the felony of misbranding by permitting an unlicensed drug to be promoted and operated under laws as a licensed drug. The use of the clinically identical phrase invalidates every requirement under the FDCA of federally authorized providers to obtain informed consent.

Next, the court dismissed the FWA, the CDC Program agreements, the FDCA, and the Public Health Service Act as merely "precatory."[39] With a single word, the Ninth Circuit voided decades of congressional work and rendered federal contracts nonfunctional. It then held that *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), forecloses even the argument that a person has a fundamental right to refuse an investigational drug. Justice Alito has warned lower courts not to freeze in time the analysis of whether a right is fundamental.[40] Conveniently, the Ninth Circuit froze the *Glucksberg* inquiry at 1905—thirty-three years before Congress enacted the FDCA, nearly sixty years before it employed the term "investigational" (1962 Drug Amendments), and seventy years before it established the legally effective informed-consent doctrine that every State and territory is bound to honor by contract. That later history shows how deeply rooted the right to refuse an unlicensed medical product has become in this Nation's traditions.

Few know that *Jacobson* itself set a threshold for judicial review of public-health measures. The first question is not whether the policy furthers a legitimate state interest. It is whether the policy invades a domain Congress has reserved to the United States. See *Jacobson* at 25. The Supreme Court held that a local health regulation, even when grounded in the police power, "must always yield in case of conflict with the exercise by the General Government of any power it possesses under the Constitution." *Id. Jacobson* then cites *Railroad Co. v. Husen*, 95 U.S. 465, 469, 471 (1877), which vacated a state law aimed at preventing the Spanish Flu because it infringed the Commerce Clause. That threshold inquiry is why the courts refuse to discuss federal legislation. Since 1938, Congress has occupied the field of unapproved-drug regulation and has never authorized a public-health mandate of an unlicensed product. Such mandates violate federal law and

[39] "Precatory" means a suggestion that one may act within their discretionary authority and is not legally binding. Words such as must, will, obtain, and shall are not precatory; they create binding obligations.

[40] See Dobbs v. Jackson Women's Health Org., 597 U.S. 215, 250–51 (2022) (Alito, J.).

agreements and thus infringe upon the federal domain. No such mandate for civilians has been issued until the Biden Administration.

The Ninth Circuit then offered a one-word analysis of whether a person has the right to refuse a liability-shielded product, such as a PREP Act-covered countermeasure, on the ground that doing so would require surrendering the fundamental right to sue if injured: "fail." Three corrupt robes swept away a right that has stood since 1215 AD without a single word explaining how such an argument could fail, much less that it did. To escape the preemption question, the Ninth Circuit manufactured a fictitious argument: that the plaintiffs had claimed the Supremacy Clause itself creates a private right of action—an argument found nowhere in the record. The Ninth Circuit's moral turpitude has reached ghastly levels, and Justice Kagan's silence proves she has no problem letting such abuses continue unabated.[41]

Space does not permit a full exposé of the appellate courts beyond what has been mentioned here. Yet the gaslighting, the falsehoods, the appellate invention of facts, and the distortion of the record all point to one indisputable conclusion: when the question is whether an HHS contractor or a government must obtain consent—and whether a person may withhold that consent—for an investigational drug, covered countermeasure, or participation in federally funded research, the federal judiciary is, by design, subverting the known will of Congress and the Constitution by refusing to engage with the questions before it. In this author's view, outside forces are influencing these judges because some opinions, issued on the same day or week, but in different states, were written nearly identically, and not one judge has even come close to complying with required standards under *Bell Atlantic Corp. v. Twombly* (2007) and *Ashcroft v. Iqbal* (2009), as you're familiar with.

Why the abuse? To clear the path for the **Governors Public Health Alliance**[42] to advance state laws that transfer Congress's exclusive authority over federal drug regulation to the States—by sanctioning misbranding and authorizing mandates of drugs the FDA has not approved. Under a newly enacted statute, Illinois now claims it is no longer misbranding to promote a WHO-approved drug the FDA has declined to approve.[43] Washington State now claims authority to issue a standing order for unlicensed drugs, usurping power Congress reserved exclusively to the Secretary under the FDCA and the Public Health Service Act.[44] Now, Washington can issue a standing order for investigational drugs even when the HHS Secretary has not issued an EUA, undermining the FDCA's federal supremacy. Alliance members are also advancing state immunity statutes for such products, including WHO-approved drugs, so that judges those governors appoint can later shield acts of battery from civil liability, robbing Americans of their rights in broad daylight.

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[41] Justice Kagan presides over the Ninth Circuit.

[42] https://govsforhealth.org/

[43] Ill. H.B. 3637, 104th Gen. Assemb. (2025–2026).

[44] Washington State Rev. Code § 70.41.030(5) (asserting state authority to issue a "standing order for any (licensed or not) biological product, device, or drug.").

The Judicial Branch had to nullify the federal supremacy of 21 U.S.C. § 355(a) in order to hand the World Health Organization control of this Nation through state governors. Removing that statute's prohibition would allow governors to mandate the use of WHO-approved drugs shielded from civil liability without violating misbranding, and to circumvent the Secretary's exclusive authority under the FDCA to introduce unlicensed drugs into commerce.

The Judicial Branch, under the silence of the Supreme Court, has usurped the authority of Congress and the Executive with respect to the regulation of drug administration, the Due Process Clause, and the rights of the American people under both. They have rendered the FWA program and the legally effective informed consent requirement nonfunctional. Public employees, licensed professionals, students, and persons seeking public benefits are now all subject to the world's most dangerous drug—an investigational drug—while being required to surrender their federally protected right to refuse participation in programs offering that drug without penalty, and to waive the right to sue any person who harms them in the administration of the drug or in activities causally connected to its administration. This is morally repugnant and constitutionally impermissible.

Before the pandemic, the Supreme Court had never permitted a state to condition public benefits on the waiver of constitutional rights or the surrender of other entitlements, because the Court has no power to allow states to nullify rights enumerated in the Constitution. Why does it now permit states to usurp those rights, if not to advance a scheme that subjects Americans to irreparable harm and enables states to coordinate with the WHO to override the FDCA's federal supremacy? History is being written in ways few realize, and America's future hangs by a thread.

IV. FDA's Unlawful Authorization of Secret Biomedical Experimentation

In 2018, the FDA proposed a rule[45] to implement provisions of the 2016 Cures Act. The agency promised to ensure that, under the new rule, no investigator may involve a human being as a subject without their "legally effective informed consent."[46] In 2024, Biden's FDA pulled a bait-and-switch by issuing a final rule that established 21 C.F.R. § 50.22, which authorizes the very conduct the agency promised the rule would not authorize—human experimentation without consent.[47] The title of the rule is "Exception from informed consent requirements for minimal risk clinical investigations."

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[45] 83 Fed. Reg. 57,378 (FR Doc. 2018-24822).

[46] The FDA stated that "At this time, we are not proposing to adopt the new fifth criterion in the revised Common Rule, which has a general compliance date of January 21, 2019; however, we invite comments on this issue." The Common Rule's fifth criterion of exemption from informed consent states that, "if the research involves using identifiable private information ("IPI") or identifiable biospecimens, the research could not practicably be carried out without using such information or biospecimens in an identifiable format."

[47] 88 Fed. Reg. 88,228 (FR Doc. 2023-27935).

Space does not permit a full explanation of facts, but it suffices to say that it is 100% impossible to achieve "minimal risk" [48],[49] involving a covert clinical investigation as to the physical safety and constitutional rights of Americans.

A. Physical Safety

A clinical investigation,[50] 100% of the time, directly exposes a test article[51] to a human being or to their biospecimens to study its impact on human anatomy.

The MalaCards Human Disease Database identifies over 19,000 known diseases.[52] The FDA regulates approximately 23,000 approved prescription drugs, 7,000 medical devices, 1,600 animal products, 753 biological products, and 100,000 tobacco products.[53] A clinical study[54] found that, on average, each U.S.-licensed drug carries 4.6 absolute contraindications[55] and 1.54 relative contraindications.[56] A National Institutes of Health study reported that 54% of prescription drugs have at least one known contraindication. A separate study identified drugs as the leading cause of anaphylactic reactions in adults.[57] The CDC reports that one in three adults suffers from some form of allergy.[58]

Against this backdrop, assessing whether a clinical investigation exceeds minimal risk—when the investigation covertly exposes a subject to a test article that may interact with an astronomical number of potential adverse reactions across an unknown number of combinations of drugs, foods, diseases, and medical products—is, as a matter of arithmetic alone, incalculable. Failing to inform the subject of the product to which they are being exposed ensures that the risks are not minimal, because neither the researcher nor the subject can ascertain the risk without discussion. It is for this reason that Congress, under the National Research Act and its progeny, requires informed consent for the use of unlicensed medical products.

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[48] 21 C.F.R. § 50.22(a).

[49] "means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests." 21 C.F.R. § 50.3(k).

[50] "means any experiment that involves a test article and one or more human subjects." 21 C.F.R. § 50.3(c).

[51] "means any drug (including a biological product for human use), medical device for human use, human food additive, color additive, electronic product, or any other article subject to regulation under the act…" 21 C.F.R. § 50.3(j).

[52] MalaCards - human disease database. Malacards.org. Published 2017. https://www.malacards.org/

[53] FDA Regulated Products and Facilities. Accessed June 6, 2025. https://www.fda.gov/media/182749/download

[54] Then MI, Andrikyan W, Fromm MF, Maas R. Comprehensibility of Contraindications in German, UK and US Summaries of Product Characteristics/Prescribing Information—A Comparative Qualitative and Quantitative Analysis. Journal of Clinical Medicine. 2022.

[55] An absolute contraindication is a situation that makes a particular treatment or procedure absolutely inadvisable. Medical Definition of Contraindication. RxList.

[56] A relative contraindication is a condition that makes a particular treatment or procedure possibly inadvisable. *Id.*

[57] Wood RA, Camargo CA, Lieberman P, et al. Anaphylaxis in America: The prevalence and characteristics of anaphylaxis in the United States. Journal of Allergy and Clinical Immunology. 2013.

[58] Ng A, Boersma P. Diagnosed Allergic Conditions in Adults: United States, 2021. PubMed. Published online December 17, 2022.

B. Constitutional Minimal Risk

The term "minimal risk" was never defined to include clinical investigations involving humans when their identifiable private information was known but consent was not obtained, implicating several fundamental rights. The FDA's implementing guidance[59] for the new rule is absurd. The agency held that an IRB may dispense with the consent requirement whenever the board deems consent "impracticable" to obtain—and the guidance treats that determination as one the sponsor may make based on its own fears that a potential participant might decline, object to the study, not like the person conducting the research, or lack the intelligence to appreciate the implications of refusal. In other words, the very factors that ought to require meaningful consent have been transformed by the agency into grounds for waiving consent entirely. The rule also permits mass-population clinical investigations on the basis that it is "impracticable" to obtain consent from large numbers of people, so the agency will dispense with that population's rights without due process. This is insanity!

Constitutional Violations:

(1) The rule violates the Fourth Amendment right to privacy. It permits the creation of secret files on Americans—now known in the industry as "shadow files." These files contain the subject's identifiable private and health information, related research data, collected biometric data, and biospecimens. They can be shared and sold on the "black market" without consent, leading to civil, reputational, or criminal consequences outside due process protections.

(2) Due Process right to bodily integrity. *Union Pacific Railway Co. v. Botsford*, 141 U.S. 250 (1891) ("[N]o right is held more sacred or is more carefully guarded by the common law than the right of every individual to the possession and control of his own person, free from all restraint or interference of others unless by clear and unquestionable authority of law."); *Cruzan v. Director, Missouri Dep't of Health*, 497 U.S. 261, 305 (1990) ("the right to refuse any medical treatment emerged from the doctrines of trespass and battery, which were applied to unauthorized touchings by a physician"). The rule sanctions battery.

(3) Takings Clause. "Government action that physically appropriates property is no less a physical taking because it arises from a regulation." *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063 (2021). The taking of biospecimens and biometric data—for purposes the individual was neither informed of nor consented to—is the appropriation of that individual's personal property, and falls within the Takings Clause's reach. As in *Cedar*, Americans no longer have the right to keep others off their property (their human body) or to keep their personal effects, papers, and digital information free from government-authorized takings.

(4) The Thirteenth Amendment protects Americans from involuntary servitude. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court defined that condition as one in which "the victim is forced to work for the defendant by the use or threat of

[59] 88 Fed. Reg. 88,228 (FR Doc. 2023-27935); see "V. Comments on the Proposed Rule and FDA Response." A federal agency's responses to questions posed under a new rule are known as "sub-regulatory guidance," which eventually becomes part of official guidance documentation.

physical restraint or physical injury, or **by the use** or threat **of coercion through law or the legal process**." The Rule exploits legal process to bypass legally effective informed consent. It enrolls people covertly, denies them the choice to refuse, and conscripts their bodies, labor, and data for research they never agreed to join. That is coercion through law of the kind *Kozminski* condemns. Covert conscription into medical experimentation—without meaningful choice or transparency—transforms individuals into unwitting instruments of corporate research and violates the Thirteenth Amendment.

(5) Due Process for injuries: The absence of a mandatory post-injury notification requirement (§ 50.22(e)) prevents redress, causing the victim to bear the physical, legal, and financial burdens alone. Such annihilation of the Due Process Clause is a direct assault on the Republic by a federal agency for an evil purpose. No words can express how evil the FDA has become.

(6) The Rule violates 42 U.S.C. § 2000bb-1(a), the Religious Freedom Restoration Act (RFRA), by permitting federally authorized persons to covertly expose Christians, Jews, Muslims, and other persons of faith and creed to fetal-derived cell lines, such as HEK-293 or PER.C6, or porcine (i.e., pig) tissues or cell lines, such as PK-15 (derived from a pig's kidney) or porcine islet cells, in ways that violate their faith and creed.

(7) Fourteenth Amendment. If the covert research data were leaked, stolen, or sold, it could expose the subject to reputational, civil, or criminal risks without due process protections.

Finally, the rule threatens national security. The data it authorizes investigators to collect can be shared with foreign governments that can engineer biological weapons targeted to specific biomarker traits, including through mRNA technology. mRNA is coded software introduced into the human body, directing that body to perform specified functions—for good or for ill. An attack built on that platform would be disguised as ordinary disease. See FN Nos. 6,7.

In 2025, I sued Secretary Kennedy, HHS, and the FDA under the Administrative Procedure Act (APA). Judge Thomas Wetherell II of the Northern District of Florida refused to permit service on the government, effectively ending the case before it began. For ninety days, I was forced into what amounted to an *ex parte* proceeding before a magistrate judge, arguing whether I had any right to sue the FDA at all. Judge Wetherell refused to acknowledge that a plaintiff need only show that he falls within the "zone of interests" of the regulation to survive a procedural dismissal. See *Bennett v. Spear*, 520 U.S. 154 (1997). He likewise refused to address the allegation that a person has the right to compel the FDA, through legal action, to notify the Nation that it cannot include them in covert experimentation. He dismissed the case because he judged that I could not establish, <u>at the time of filing the complaint</u>, that I was involved in a covert clinical investigation, while ignoring that I was indeed a person subject to the regulation.

Judge Wetherell is the most dangerous judge in modern America. His ruling holds, in substance, that the Executive Branch may violate federal law and the Constitution and strip the Nation of its enumerated rights, so long as it does so covertly. When the violation is covert, the American people lack judicial standing, thereby nullifying the APA's full

intent. Judge Wetherell's ruling firmly established for me that outside influences have overtaken the Judicial Branch of Government for evil purposes. His ruling and actions are novel and an abuse of discretion and power, denying the effective filing of a complaint without citing a single case supporting the closure of a complaint before the defendant is served. Senator, each use of 21 C.F.R. § 50.22 constitutes irreparable harm because it strips Americans of their constitutional guarantees without due process.

Importantly, in the three years leading up to the COVID-19 pandemic, hundreds, if not thousands, of entities switched from local IRB oversight to a single IRB. It is doubtful that a single IRB can effectively manage hundreds of entities while protecting the American people. HHS has completely failed to comply with 42 U.S.C. § 289. After RFK Jr. became Secretary, HHS, for the first time, removed public access to the names of the IRBs that entities conducting research rely on for 21 CFR 50.22 approval. What have those IRBs permitted to be done to and stolen from the American people, and why is HHS, under Secretary Kennedy Jr., shielding those IRBs from public transparency?

V. Solutions:

(1) I respectfully request that you seek the involvement of President Trump and Florida's Attorney General in the remaining federal cases, via amicus support, while there is still time to save America from the Supreme Court's silence—whether that silence stems from the malfeasance of court clerks[60] or the corruption of all nine Justices. These cases do not challenge any authority to issue a mandate, nor do they address the safety or efficacy of any drug. They question only the authority to mandate the use of an investigational drug, force disclosure of private health information to medical researchers, use a covered countermeasure that waives constitutional rights, and punish people for exercising benefits the state was paid to offer the public on the federal government's behalf under voluntary conditions. Moreover, it secures the supremacy of the FDCA, the Secretary's exclusive authorities under that Act, and keeps the WHO out of America. Importantly, it reclaims the Due Process Clause that lower courts have stolen from the American people by compelling the Supreme Court to reaffirm that government coercion cannot compel a waiver of constitutional rights and that any waiver must rest on voluntary consent. If voluntary, then battery cannot supply the process.

(2) I request that you urge the Florida Attorney General to sue the FDA to vacate 21 C.F.R. § 50.22, to obtain an order requiring full disclosure of every biomedical experiment conducted on the American people, and to compel the surrender of every private medical file created under the Rule. That suit is preferable to a presidential executive order repealing the regulation—though the President may issue such an order,

[60] The Ninth Circuit, together with defendants such as the Attorneys General of Oregon and Washington, inserted arguments into the record that are nowhere found in the complaints—suggesting that plaintiffs had claimed Congress lacks power to grant product immunity or that the Supremacy Clause creates a private right of action. No plaintiff ever made those arguments. With the cases scheduled to coincide with the summer dump of nearly 1,200 petitions, the clerks appear to be shielding the Justices from the true nature of the litigation. If the pool memoranda relied on the appellate court's invented arguments, the actual claims would have been bypassed.

the Rule having been adopted unlawfully. The American people deserve to know what Biden Administration officials, as well as Democratic governors and mayors, have done to them under that Rule. Potential injuries may require judicial relief requiring full disclosure under court order. A presidential order will allow the administrative bureaucracy to shield review, deny full disclosure, and impose the same regulation in the future. The FDA rule requires judicial review, not administrative action.

(3) Request that Governor DeSantis work with the Florida Legislature to enact model legislation other States can adopt: a private right of action, available to every person and not limited to any suspect class, modeled on 18 U.S.C. § 245(b)(1)(A)–(E). Section 245 is a criminal statute. The state bill should create a civil action, and its operative clause should read: "Whoever, whether or not acting under color of law, funds, or by force or threat of force, or by coercion, intimidation, or deception, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with…" Adopting subsections (A) through (E) under that clause would let individuals sue private parties—and those who fund them—who deprive them of federally funded benefits, whether using a highway, entering an airport, or refusing federally funded investigational drugs or research activities. It would also protect them from federal officials and rogue judges who use private parties to wage a proxy war on the American people, which is what is occurring now.

(4) Enact legislation under 42 U.S.C. § 289 creating a federal private right of action for any person pressured into an unlicensed medical treatment or into federally funded research. As a condition of receiving federal funds for those activities, require States to waive Eleventh Amendment immunity. See *Alden v. Maine,* 527 U.S. 706 (1999); *College Savings Bank v. Florida Prepaid*, 527 U.S. 666 (1999); *Atascadero State Hospital v. Scanlon*, 473 U.S. 234 (1985). A clear statement—"Receive these funds, and you may be sued in federal court for pressuring a person into unlicensed treatment or federally funded research"—satisfies the constitutional requirement.

(5) Enact legislation to establish a continuing-education facility in the northernmost reaches of Alaska, to which the Supreme Court may send judges who fail to comply with court orders or to follow the Federal Rules of Civil Procedure. Failure to attend or complete the course would constitute voluntary resignation from the bench. Failure to obtain a passing grade would require immediate repetition of the course, which should take six months to complete. It should be called the "Margaret McKeown Act" after Senior Judge McKeown of the Ninth Circuit.

(6) Send a letter to the DOJ requesting that it correct Dawn Johnsen's erroneous opinion that States may effectively violate federal law and federal contracts. See *Office of Legal Counsel, Whether Section 564 of the Food, Drug, and Cosmetic Act Prohibits Entities from Requiring the Use of a Vaccine Subject to an Emergency Use Authorization*, 45 Op. O.L.C. __ (July 6, 2021) (Johnsen, Acting A.A.G.). Notice the phrase "use of a vaccine"? It gives the impression that the drug is licensed as a vaccine but subject to EUA use, which is nonsensical because a licensed product can never be issued an EUA for its licensed use.

(7) Request that Harmeet Dhillon, Assistant Attorney General for Civil Rights at the DOJ, start suing states, such as Colorado, that require use of a covered countermeasure conditioned on working in a state-licensed industry, an unconstitutional condition.

(8) Request that Secretary Kennedy investigate the systemic failures by IRBs and FWA contractors who subjected Americans to unwanted investigational drugs and federally funded research activities under the CDC COVID-19 Vaccination program.

(9) Request that President Trump issue an Executive Order requiring that every PREP Act declaration be amended to state that a person who subjects another to a covered countermeasure is not a "covered person" under that declaration.

(10) Request that Florida's Attorney General sue to declare the PREP Act unenforceable on the ground that Congress failed to require potential recipients be informed that administration of a covered countermeasure waives the right to sue if injured. As previously discussed, a waiver of constitutional rights must be knowing and voluntary and can never be presumed. Because the Act supplies no consent requirement and no disclosure that the right to sue is extinguished, it is unenforceable as applied and thus arbitrary. On that ground, the Court should vacate the Act, as it was designed to steal America's highest privilege of citizenship by stealth.

I close with this. By remaining silent—by refusing to review dozens of petitions raising these questions, from multiple attorneys and plaintiffs—the Supreme Court has betrayed the Constitution, its oath, Congress, and the American people, who are paying the ultimate price: death and the loss of constitutional rights. If the courts cannot secure due process, history warns that victims will seek justice in the streets. Senator, let us ensure that history is not repeated in our Nation by acting today, while we still have the power to do so. Thank you for taking the time to read this letter and consider the consequences if America fails to meet the challenges it outlines. I stand ready to serve the American people, as I have for four years and 4,000 hours of pro bono work.

Respectfully,
Brian Ward

CC:
Senator Ron Johnson (WI)
Senator Rand Paul (KY)
Justice Phil Berger Jr. (N.C. Supreme Court)
Justice Tamara P. Barringer (N.C. Supreme Court)
Representative Andy Harris (MD)
Representative Tim Burchett (TN)
Governor Ron DeSantis (FL)