

# EXHIBIT 13

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

<b>ISRAEL ALVARADO, ET AL,</b>	:	
	:	
v.	:	<b>Case No. 1:22-cv-0876</b>
	:	
<b>LLOYD AUSTIN, ET AL</b>	:	
<hr style="width: 100%;"/>	:	

**DECLARATION OF  
CHAPLAIN CRAIG G. MUEHLER, CAPT, CHC, USN (RET)**

Pursuant to 28 U.S.C. §1746, I, CRAIG G. MUEHLER, declare as follows:

1. My name is Craig G. Muehler. I reside in St. Louis, MO. I am older than 18 years and have personal knowledge of and am competent to testify on the matters herein.
2. I retired as a Navy Chaplain at the rank of Captain and currently am the Endorsing Agent for the Lutheran Church – Missouri Synod (“LCMS”), also located in St. Louis, Missouri.
3. I write to:
  - a. specifically address the meritless allegation by the government defendants in the above captioned case that they have the power to define in secular terms “Rite, Ritual and Ceremony” as used in Section (“§”) 533 of the 2013 National Defense Authorization Act (“NDAA”), as amended by the 2014 NDAA; and
  - b. to support the religious accommodation request (“RAR”) and declaration of Chaplain (Capt.) Robert Nelson, USAF, *see* ECF NO. 1-3, pages 22-27, a LCMS endorsed chaplain which is consistent with our historical and biblical understanding of the importance of chaplains and Christians obeying their conscience as formed by Scripture and faith.
4. I am also currently the president of the Chaplain Alliance for Religious Liberty (“CALL”), an organization of chaplain endorsers founded and organized in 2011 after Congress repealed the prohibition against homosexuals serving and the Defense of

Marriage Act was challenged in the courts.

a. We were and are concerned because of the conflict between liberal and conservative denominations/faith groups and the failure of military commanders to recognize the need for chaplains and their right to accurately represent their beliefs and conscience.

b. CALL recognized the need to defend the right of chaplains to follow their conscience and speak the historic truth and commands of Scripture in order to accurately represent their endorsing agency.

c. I address CALL's position on the vaccine mandate later in ¶ 20 after addressing the 2013 NDAA language which CALL believes is the result of our and the International Conference of Evangelical Chaplain Endorsers' work with Congress in 2012.

5. The LCMS was one of the original founding members of CALL. CALL began to work with members of Congress in 2011 and 2012 to provide legislative protection for chaplains.

a. Along with the International Conference of Evangelical Chaplain Endorsers, we were concerned about problems of censorship, conflict and the uncertainty of what one could say on sensitive topics that the Scriptures define as "sin".

b. The Religious Liberty problem was not just concern about forcing chaplains to conduct same-sex marriage ceremonies; the conflicts we shared with Congress to emphasize the necessity for protecting religious liberty arose from chaplains' sermons, counseling, or just ordinary encounters with military personnel because a small aggressive minority appeared to be intent on punishing people who did not agree with their expansive view of what was good and evil.

6. The terms "Rite, Ritual and Ceremony" as used in § 533 are religious terms, not secular

as shown by the context and purpose of § 533, to protect chaplains' rights of conscience as formed by their faith. Chaplains are by tradition and Department of Defense ("DoD") Instruction ("DoDI") 1304.28, "Guidance for the Appointment of Chaplains ...", defined as qualified clergy who are appointed to the office of chaplain to represent their denomination to the armed services as representatives and commissioned as officers. DoDI 1304.28 (5/12/2021), § 3.1.d ("Chaplains belong to religious-endorsing organizations and conduct religious ministry activities consistent with the tenets of their respective religious-endorsing organizations."); *id.* Glossary, ¶ G.2,

**endorsement:** The internal process that religious organizations use when designating RMPs [Religious Ministry Professionals] **to represent their religious organizations to the Military Departments** and confirm the ability of their RMPs to conduct religious observances or ceremonies in a military context. (Emphasis added).

7. DoDI 1304.28 Glossary ¶ G.2 defines the term "ecclesiastical endorsement" as

Written documentation from a religious organization that complies with the administrative requirements of this issuance stating that an applicant for the military chaplaincy is fully and professionally qualified and endorsed to perform all offices, functions, sacraments, ordinances, and ceremonies required of an RMP for that religious organization and is capable of ministering and authorized to minister as required within a pluralistic environment.

8. This is important because every chaplain and their endorsing agency, church or religious organization agrees as part of the endorsement and qualification process for appointment as a chaplain, they must operate in the military's "pluralistic religious environment." The practical application of that phrase is that each chaplain respects the right of other chaplains to be different in their beliefs, practices, traditions and theologies.

9. As Chaplain Steve Brown, endorser for the Associated Gospel Churches has explained in ¶¶ 7, 10-16 of his declaration, Preliminary Injunction Exhibit 12, ECF No. 60-12, in a pluralistic environment, such as the Military Chaplain Corps, theological terms like "rite, ritual or ceremony", have different meanings for different chaplains of different religious organizations.

10. For example, the LCMS is a Sacramental church and we define the sacraments to be Holy Baptism and Holy Communion; yet Holy Absolution is also a sacred means of grace. Other faith groups would define the Lord's Supper (Holy Communion) and Baptism as a "rite" or "ceremony" or "symbol"; whereas the LCMS would define it as a sacrament. Another example is marriage. Marriage is not a sacrament in the LCMS but considered a rite (divinely instituted by God). Yet, marriage is considered a sacrament by other faith groups. LCMS baptizes infants and other chaplains only baptize adults and/or don't do baptisms at all.

11. As the term "Ecclesiastical Endorsement" above indicates, there are variety of things that military chaplains must do for their religious organization, including "perform all offices, functions, sacraments, ordinances, and ceremonies required of an RMP for that religious organization." The proper performance of those functions or duties must be done according to the chaplain's conscience as formed by his faith in coordination with the chaplain's endorser. Whether these are "rites, rituals or ceremonies" can only be determined by the endorsing agency.

12. It is a slippery and dangerous slope for the government to try to define the meaning of rites, ceremonies, and rituals. Each chaplain has the obligations to support the tenets of their religious organization; however, they also have the right of conscience. Each chaplain and religious organization have their own theological interpretations. In this pluralistic world of military chaplaincy, we agree to cooperate without compromise.

13. Almost, every religious organization has a different manner and form of their expression of the tenets of their faith and different definitions of what is considered a "rite", a "ceremony" or a "ritual". DoD has no authority to define what those terms mean for a religious organization and/or a chaplain.

14. The LCMS believes in the authoritative, inspired, inerrant, and infallible Word of God. The Holy Scriptures are the authoritative standard for our doctrine and our behavior. Our

consciences are bound to God's Word. The Bible teaches many things concerning human life—body and soul, its creation by God, its profound worth, its beginning and end, its maintenance and care, and much more. By these teachings of His Word, God informs and judges our consciences. These teachings inform our consciences regarding the use of our bodies, including the use of the COVID-19 vaccine. Chaplain Nelson 's RAR and declaration, ¶¶ 8 and 10, embrace and proclaim those principles.

15. It is ironic that what the government is doing through its COVID mandate and denial of religious accommodation requests is somewhat similar to what Emperor Charles V asked Martin Luther to do at the Diet of Worms, April 18, 1521, recant his beliefs and surrender his conscience.

16. Dr. Luther's response expresses the same truth as many of these plaintiff and CH Nelson have stated in their RARs and declarations:

If then, I am not convinced by proof from Holy Scripture, or by cogent reasons, if I am not satisfied by the very text I have cited, and if my judgment is not in this way brought into subjection to God's word, I neither can nor will retract anything; for it cannot be either safe or honest for a Christian to speak against his conscience. Here I stand. I cannot do otherwise. God help me. Amen.

<https://www.worldhistory.org/article/1900/luthers-speech-at-the-diet-of-worms/>

17. We, the LCMS, respect the consciences of fellow believers who share our same commitment to Scripture. We support our members and pastors who truly believe according to their conscience and faith that they must request a religious accommodation exemption from receiving any COVID-19 vaccine. Our church body and I fully respect, support, and stand behind the consciences of our pastors, chaplains, and fellow believers who take this stand based on their personal commitment to Scripture.

18. The setting for the government's demand to CH Nelson and others to surrender their conscience and renounce their beliefs may not have the audience and royalty surrounding Luther's

1521 meeting with the Emperor in Worms, but the issues are the same: who controls your conscience, God or the government? It's the same question every martyr has confronted. Some chaplains see it as a ceremony, others a ritual like a court procedure, and others nothing of significance, depending on one's theology.

19. The purpose of § 533 is expressed in its words, protection of chaplains' conscience and beliefs and context, numerous conflicts over differences in theologies and beliefs concerning "sin" and other religious terms. Section 533(b)'s title is "Protection of Chaplain Decisions Relating to Conscience, Moral Principles, or Religious Beliefs." The 2018 NDAA directive language emphasizes chaplains' religious liberty and the role of § 533 and the Religious Freedom Restoration Act in allowing chaplains to accurately represent their endorsing agency's beliefs and follow their conscience as formed by their faith.

20. I also write to express CALL's concern over the "Forced Compliance to Vaccination in Armed Forces" as presented in our November 1, 2021, Press Release. I present its contents below for continuity and ease of reading.

## **CHAPLAIN ALLIANCE FOR RELIGIOUS LIBERTY**

**November 1, 2021 – FOR IMMEDIATE RELEASE**

**Contact CHAPLAIN ENDORSERS at [info@chaplainalliance.org](mailto:info@chaplainalliance.org) or call (571) 293-2427**

### **CALL CONCERNED ABOUT FORCED COMPLIANCE TO VACCINATION IN ARMED FORCES**

WASHINGTON — Many organized and independent faith traditions have made official statements regarding their official positions on the current COVID vaccinations. Chaplain Alliance for Religious Liberty (CALL) is concerned that these various positions are being used to justify or condone forced compliance to "mandatory" vaccinations in our Armed Forces. No service member should be compelled to receive the vaccine should they hold to a sincere conscientious objection. The 'right of conscience' is clearly understood, and consistently protected by our courts, as our first protected right in the Constitution and Bill of Rights.

Citing the precedent of law — such as the Religious Freedom Restoration Act — Chaplain Craig Muehler, President of CALL, said, “We are thankful for the many who are diligently working to aid those serving our nation in uniform who seek a religious accommodation from recent directives dictating forced vaccinations.” The government has an extremely high standard to meet before they can deny an individual’s request for religious accommodation. Yet current military leadership appear to be universally ignoring these legitimate requests. “We encourage those so inclined to receive the COVID vaccination, and continuing boosters, to continue to get their vaccinations,” said Bishop Derek Jones, Executive Director of Chaplain Alliance. “At the same time, Chaplain Alliance for Religious Liberty firmly supports those whose conscience does not permit them to be vaccinated for reasons of faith and religious conviction.”

Chaplain Alliance for Religious Liberty is an organization of chaplain endorsers, the faith groups that provide chaplains for the U.S. military and other agencies needing chaplains. The endorsers in Chaplain Alliance speak for more than 2,600 chaplains serving the Armed Forces.

<https://www.chaplainalliance.org/news/1-november-2021-call-concerned-about-forced-compliance-to-vaccination-in-armed-forces>

21. As ¶ 5 above explained, the Religious Liberty problems § 533 was designed to address sought to eliminate a chaplain’s right and duty to exercise his/her conscience as shaped and guided by faith and historic Christian beliefs.

22. To do that, the 2013 NDAA used terms which chaplains would understand in their religious context and understanding of the requirement to operate in the pluralistic military religious community. The issue then was obedience to conscience as formed by faith, and it is the same issue today.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

September 6, 2022

/s/ Craig G. Muehler  
CRAIG G. MUEHLER