

EXHIBIT 7

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
_____	:	

SUPPLEMENTAL DECLARATION OF
CHAPLAIN LT COL STEVEN W. BARFIELD
in response to LT COL JOSHUA J. WOLFRAM declaration

Pursuant to 28 U.S.C. §1746, I, **Steven Weyman Barfield** declare as follows:

1. My name is **Steven Weyman Barfield**. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this supplemental declaration in response to **Lt Col Joshua J. Wolfram’s** declaration regarding the Department of Defense and Department of Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. In Exhibit 24, Paragraph. 14, Lt Col Wolfram states that my duty title change to ‘IMA To the Wing Chaplain’ has nothing to do with my RAR and that it was rather a

lack of PME and simply a decision of the developmental board just like with active duty. It is true that originally in January 2022 my Wing Chaplain (Ch Bowen), was told by AFRC/HC that PME was important and that they had concerns about my lack of PME. However, Ch Gregory Ellis wanted to do a phone interview with me, which we did. Not once did he state that lack of PME was a disqualifier, end of story. We had a very healthy discussion, and I was told they would talk about my duty title change. About a month after the phone call, I asked my Wing Chaplain if he had heard any news and he thought the decision was made to not grant the title change due to lack of PME. I then spoke to IMA Ch, Col Mark Bowditch at AFMC/HC, who had more of a history with the IMA leadership and duty title change process, and he told me that he had never seen PME be a sole disqualifier and at his urging I called Ch Gregory Ellis at AFRC/HC on March 4, 2022. During the call, I expressed my opinion that withholding a duty title position of 'IMA to the Wing Chaplain' from an officer who had been promoted to Lt Col even without PME was not fair because it had never been the standard in the IMA chaplain world. The previous IMA to the Wing Chaplain at WPAFB, Lt Col St. Rose, had not completed his PME yet he served as IMA to the Wing Chaplain for many years. There are currently other IMA Chaplains at other bases who have not completed PME, yet have the duty title of IMA to the Wing Chaplain. It is not uncommon for a Chaplain in the IMA world to be promoted without PME. I believe four chaplains who had not completed PME schooling were promoted to Lt Col the same year as I was. Perhaps it is because some of us are very busy with our civilian jobs and we cannot do our PME while performing our IMA duties. I asked Ch Ellis if PME did not disqualify me from

becoming a Lt Col then why should it disqualify me from having the duty title IMA to the Wing Chaplain if my Wing Chaplain requested that I serve in that capacity. Why promote me at all if lack of PME will keep me from leading? Before I could continue, Ch Ellis cut me off and acted confused about my concern and tone and expressed that they still had me slotted for a leadership duty title spot but needed to find out what the holdup was for my official duty title change. Ten minutes later Ch Ellis called me back and asked if I had submitted an RAR request, which I had. He said, "Well I would appreciate it if next time you call me and raise concerns that you let me know you have an RAR, it would have made the conversation easier." I then asked Ch Ellis what my RAR had to do with me not being able to be the IMA to the Wing Chaplain? He said, "We need to see how your RAR turns out." I expressed that this was not fair and could be called discrimination based on my religious beliefs. He said it wasn't discrimination and that it was simply a matter of waiting to see how the RAR process turns out. When I asked Ch Ellis about my lack of PME, he expressed that it was a concern initially, but now they wanted to see how the RAR turned out. That was the end of our conversation. He never said my lack of PME was a disqualifier. There is a difference between concern and disqualifier. I know PME has value, but so does the real-world leadership experience I have as the CEO of a large company. If PME was the sole issue, then Ch Ellis would have said so all along and there would have been no need to call me back nor mention the RAR at all. I never received an AFI regarding the change in policy that PME was required for IMAs who meet rank to have a duty title if the active-duty commander requests them and I haven't heard from Ch Ellis again. If Ch Ellis misspoke on the two

occasions we talked and PME was the reason, I find it very odd that the AFRC Chaplain team suddenly implemented an oral shift in policy to PME as a disqualifier for chaplain leadership duty title positions considering this happened during the middle of RAR requests flowing in from fellow chaplains. It is even more strange that there was no AFI provided, and that Ch Ellis did not one time tell me that I was disqualified based on no PME, if that indeed is the clear-cut policy. He simply expressed they would prefer for me to have PME. Ch Ellis was very clear that my RAR was the issue holding up my duty title change, not my PME. He knows that my Wing Chaplain trusts my leadership ability and that he has requested me to be his IMA to the Wing Chaplain multiple times. Even though I do not have the official title, my Wing Chaplain still turns to me to fulfill the role and responsibilities required of that title. I believe each chaplain should be looked at individually like the promotion board. Ch Ellis is aware that in my civilian job that I lead over 100 employees, and this makes it very difficult to complete PME, but it also provides real world leadership experience. I believe Ch Ellis was ok with my duty title change and is why he never once said I could not be the IMA to the wing chaplain based on PME, but instead focused on the RAR.

4. In Exhibit 24, Paragraphs 8-9, Lt Col Wolfram expresses the chaplain duties and number of chaplains available at WPAFB. He focuses on the manning challenges we face in order to support a compelling government interest. I am not sure how the number of IMA and active duty RAR requests at one base chapel disqualifies my RAR request. I don't read that in the RAR AFI. My duties as the acting IMA to the Wing Chaplain are like the Wing Chaplain and therefore mostly administrative. I do not lead services and

the counseling I perform is voluntary as a Lt Col but could easily be performed using social distancing and masks. My natural immunity does provide coverage and protection as even the CDC admits now. I have never missed a duty day due to COVID, yet other vaccinated chapel staff have worked from home due to COVID issues. Even President Biden has been vaccinated, has gotten COVID, and has used therapeutics all while still performing his administrative duties. I have no doubt as a younger, healthier person I could do the same. If too many chaplains from WPAFB have asked for an RAR, perhaps the AF could move the chaplains who have an RAR to other bases so that the ratio of unvaccinated chaplains isn't as high. The AF should also look at current science and data regarding the vaccine's effectiveness compared to natural immunity. It is more of a therapy than a vaccine since it doesn't keep people from getting COVID. New data about the vaccine is available since the RAR teams met. This new data should be used to reconsider our RAR requests. I have 72 days to serve as an IMA over three years. Deployment and backfilling beyond my 24 days a year is voluntary. I believe I can work with testing and masks if needed for 72 days. I have worked 48 days already as an unvaccinated chaplain and performed my duties just fine.

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 1, 2022

/s/ Steven W. Barfield
Steven W. Barfield

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

ISRAEL ALVARADO, et al.,	:	
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<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
_____	:	

SUPPLEMENTAL DECLARATION OF CHAPLAIN (CPT)
JEREMIAH BOTELLO
in response to LTC Frank Judd's declaration

Pursuant to 28 U.S.C. §1746, I, Jeremiah Botello declare as follows:

1. My name is Jeremiah Botello. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein;

Response to LTC JUDD

2. I make this supplemental declaration in response to LTC Frank Judd's declaration regarding the Department of Defense and National Guard Bureau and Arizona Army National Guard mandates requiring that I be vaccinated against COVID19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. Contrary to LTC Frank Judd's claim, I initially filed a complaint for religious discrimination in Sept 2021—not November 1, 2021; see ex 1-2

4. I was told by the Arizona National Guard State Chaplain Corps that all religious accommodations for the COVID-19 vaccine would be denied and that they did not want to see “all these religious accommodations come across the State Chaplain’s desk;”
5. I was told, “The Army wants you to submit a Religious Accommodation Request.” The order to submit a RAR was a violation of the protection of the free exercise of my religious freedom and a discriminatory action in and of itself; see Ex 3. p. 1.
6. In response to Lt. Col. Judd's Declaration, the following facts demonstrate that delay in processing my RAR has resulted in retaliation:

Unemployment and Withheld Compensation

7. Delay in my religious accommodation processing has resulted in my ongoing unemployment and withholding of compensation;
8. Since 2015, I have been full-time active duty (Active Duty Operational Support “ADOS”) for at least six (6) to nine (9) months out of every fiscal year. However, I have been unemployed continuously since December 2021; see Ex 4.
9. Although I am proud of my service to this country, both as a special forces soldier and now as a chaplain, I am prevented from serving as either, without resolution of my RAR;
10. The only compensation I have received for my service over the past nine months has been for the single weekend per month that I am called up for service in the Arizona National Guard;

11. As my positive and favorable promotions and evaluations demonstrate, this has never happened to me before;

12. Arizona National Guard leadership informed me that soldiers without a COVID-19 vaccine would not be allowed to work full-time on ADOS orders in support of Task-Force COVID (“TF-COVID”) or border missions;

13. As a result, I was denied employment by the Arizona National Guard State Chaplain after being advised of a vacancy in January 2022;

Medical Claims Denial and Reimbursement Sought

14. I have been told by my superiors that my medical treatment and claims will not be covered by the military, because of my stance on the COVID 19 vaccination;

15. This has never happened to me before;

16. I am paying for Army health insurance and yet having my insurance claims denied; see Ex 5.

17. I have received voicemail and bills that reflect the Army is not reimbursing my providers for some of my medical care;

18. I have received bills from the Army seeking reimbursement for medical treatment and claims that the Army has paid and covered on my behalf. Specifically, I have received multiple collections calls from TriCare, the Army’s healthcare administrator, advising that the Army wants to be reimbursed for expenditures for my medical treatment and claims;

A. This has never happened to me before;

Evaluations/Promotions Withheld

19. My evaluations and associated promotions have been withheld;
20. My current positive evaluations have been placed in a restricted file, inaccessible to evaluators; see Ex 6-7.
21. Old unfavorable evaluations have not been placed in the restricted file;
22. As a result of this, any pending review will only include available negative evaluations, which provide an adverse and lopsided perspective on me and my service;
23. My last evaluation was through October 2020, and I should have received an evaluation for the time period from November 1, 2020 through October 31, 2021;
24. I should also have received an evaluation for the time period from November 1, 2021 through October 31, 2022;
25. Although I have not yet received a negative evaluation for either of these two most recent years, the lack of evaluation is problematic;
26. The lack of an evaluation is considered negative/unfavorable administrative action;
27. The lack of an evaluation results in failure to promote/lack of promotion;
28. Lacking an evaluation has never happened to me before;
29. I have not been paid for January 2021 drill with the Arizona National Guard (approximately \$1,000) even though I worked from home for that drill, and other National Guardsmen were compensated for similar work from home during drill;

Administration Exhaustion and Lack of Remedy

30. As I have endured the aforementioned retaliation, I have made every effort to exhaust administrative processes regarding my RAR at every available level; see Ex 8-12.
31. Because my RAR is in limbo, I am unable to appeal;
32. Although RAR decisions are typically made within 60 to 90 days, I have been in without a determination for nearly a year; my non-conservative classmates RAR were approved, see Ex 13.
33. I have been directed by a commanding United States Army General as well as White House staff to file a lawsuit as the Equal Employment Opportunity Commission (“EEOC”) provides no process to protect citizen-soldiers against the Secretary of Defense (“SECDEF”) and/or the Arizona Adjutant General (“TAG”) committing employment discrimination based on religion;

Irreparable Harm

34. I request the Court’s intervention and assistance in addressing this broken/absent EEOC complaint process against the SECDEF to address the irreparable and ongoing harm, both for me and for those I serve;
35. Contrary to LTC Frank Judd’s claim, the U.S. Army Chaplain Corps and the Arizona State Chaplain enforced “religious tests” to determine which guard Chaplains would remain in full-time employment;
36. By failing to process my RAR, the Army is rejecting my sincerely held Christian beliefs and pressuring me to believe that Jesus would financially support the

abortion industry by consuming a vaccine with ties to unethically sourced fetal stem cells; and

37. Contrary to the DOD's claims in Exhibit 65, page 13, section "B. Plaintiffs' Claims Are Not Ripe." ARBA/the DOD cannot repair/remedy emotional, physical, and psychological damages. Specifically, irreparable harm results from the increased number of suicides and mental health cases due to soldiers like me being bullied. We have had evaluations, promotions, employment, financial compensation, medical treatment, and medical claims coverage withheld. We face ostracism and spiritual crisis not only by the failure of the RAR process, but by the unreasonable delay in administrating the process.

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.

Executed this September 1, 2022

/s/ Jeremiah Botello
Signature

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

ISRAEL ALVARADO, et al., :

Plaintiffs, :

v. :

Case No.: 1:22-CV-00876-AJT-JFA

LLOYD AUSTIN, III, et al., :

Defendants. :

_____ :

SUPPLEMENTAL DECLARATION OF CHAPLAIN,
CAPTAIN, WALTER D. BROBST
in response to MAJOR GENERAL JEFFREY PENNINGTON declaration

Pursuant to 28 U.S.C. §1746, I, Walter D. Brobst declare as follows:

1. My name is Walter D. Brobst. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this supplemental declaration in response to Jeffrey Pennington declaration regarding the Department of Defense and Department of Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. It was said, "...has not attended basic chaplain course due to Defense Department force health protection COVID-19 mitigation efforts limiting official travel for unvaccinated personnel." This is incomplete but I was scheduled to attend Basic Chaplain Course (BCC) 22B, 25 April-20 May 2022, but was prevented due to

RAR denial. I was informed by Chaplain, Major, Brandon K. Markette, USAF, Staff Chaplain, Programs and Training, AFRC/HCX, that Air Education and Training Command (AETC) policy would permit unvaccinated personnel to attend BCC with an approved RAR. Due to my RAR denial, I was considered not a fully qualified asset to chaplain corps and cannot deploy. In addition, I attended Officer Training School (OTS) between the dates January 5-February 26 2021 and was permitted to attend without a RAR request. During my time at OTS, my roommate tested positive for COVID-19 and I was quarantined for 14 days. OTS was able to accommodate while in quarantine and I was able to complete OTS as scheduled. I was released from quarantine without showing a negative test and did not show any symptoms.

4. Pennington states, "I do not believe 1st Lt Brobst, or any member of the chaplain corps, can serve safely or effectively in a traditional reserve/UTA or in a deployed environment if unvaccinated." On July 21, 2022 I requested, via chain of command, to be reinstated reference Class as certified by the United States District Court for the Southern District of Ohio, Western Division – Cincinnati. On August 8, 2022 I received a Memorandum Order to Return indicating I am one of those affected Fourth Air Force members and was ordered to return to duty. I acknowledged receipt of this order on August 9, 2022. In contrary to Pennington's belief for me not to serve UTA as unvaccinated personnel, I participated August UTA via Telework safely and effectively.

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 1, 2022

/s/ Walter D. Brobst
Captain, USAF
Chaplain, 452 AMW/HC

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
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ISRAEL ALVARADO, et al.,	:	
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<i>Plaintiffs,</i>	:	
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v.	:	: Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

SUPPLEMENTAL DECLARATION OF CHAPLAIN Justin E. Brown
in response to Defendants opposition, Rear Admiral Eric Jones’ Declaration,
Captain Keith M. Donohue’s Declaration, and Chaplain Justin Brown RAR
working file.

Pursuant to 28 U.S.C. §1746, I, JUSTIN ELISHA BROWN declare as follows:

1. My name is Justin Elisha Brown. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this supplemental declaration in response to Defendants Opposition, Rear Admiral Eric Jones declaration, Captain Keith M. Donohue’s declaration, and Chaplain Brown’s RAR working file, regarding the Department of Defense and Department of the Navy mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

Defendant's Opposition to Plaintiff's Motion for Preliminary Injunction

3. On page 20 Defendant's state my RAR appeal has been denied "but no administrative action has been initiated", which is false. After receiving my appeal denial I was issued a negative CG-3307 P&D-41D¹ (EX 1) stating I was in violation of Article 90 and 92 of the UCMJ. This negative 3307 is the fourth in a series of documentation and is used as justification to separate members from the Coast Guard, constituting initiation of administrative action.

4. On page 44 Defendants disregard my natural immunity to Covid-19 as a lesser restrictive means of accommodation, citing lack of data. In my appeal to the denial of my RAR I provided 150 peer reviewed studies on the efficacy of natural immunity which were not addressed. On August 11th the CDC acknowledged the efficacy of natural immunity in producing herd immunity and as stated in my RAR, Appeal of my RAR denial, and initial declaration to this honorable court I have not contracted Covid since March of 2020. My personal circumstances have not been evaluated, only blanket nebulous evocations of force readiness. On page 3 paragraph 3 of Captain Donohue's declaration he accurately states "He (Chaplain Brown) provides training, counseling, command advisement, spiritual guidance, and pastoral care to 2000+ CG personnel in Sectors Houston-Galveston and Corpus Christi across three states: Texas, Louisiana, and New Mexico", not once during my service to civilian and CG personnel have I contracted or spread Covid-19.

Rear Admiral Jones Declaration

¹ My negative 3307 states that I was ordered on June 14th to the base clinic to receive the first dose of the COVID-19 vaccine and falsely states that I acknowledged this order on May 27th, which is impossible as I am not a time traveler.

5. Page 6 paragraph 7 Admiral Jones accurately describes manner in which a Chaplain is to conduct the RAR interview stating “In assessing the sincerity of the request, the chaplain must not base his opinion on the chaplain’s personal religious beliefs or his interpretation of what constitutes an appropriate religious or other practice, but must focus instead on the importance of the request to the requester in terms of religious beliefs or principles, given the information provided” However contrary to this guidance, the office of the Chaplain of the Coast Guard sent out “optional” questions generated by the HQ legal team for Chaplains to use in the RAR interview (EX2). These questions were highly argumentative and oppositional to members requesting a Religious Accommodation and included a table with quotes from religious leaders from varying faiths stating it was acceptable to take a Covid-19 shot². In my professional and objective opinion the purpose of these questions was to dissuade members from seeking a Religious accommodation, to establish a state/Coast Guard approved religious belief on Covid 19 vaccination, particularly disregarding the objections members had to the use of fetal cells in any manner or form for the vaccines, and compel chaplains to adhere to a state/Coast Guard approved religious belief on Covid Vaccination by using these questions to proselytize our members during the RAR interview.

6. On page 8 paragraph 16 Admiral Jones states my RAR was processed in accordance with CG policy described in his declaration. However the negative

² The viewpoint of a religious leader is irrelevant to the personal God given conviction of a member submitting an RAR. Furthermore it is a violation of the members free exercise of religion to try to impose the Chaplain’s perspective on a religious matter. The pressure to implement these questions in our interview serves as a violation of my own rights protected under Section 533 of the NDAA 2013 as amended by NDAA 2014.

endorsement from my Sector Commander, Captain Jason Smith, did not take my particular circumstances into account and was predetermined (EX3). A first iteration of the template of the Negative endorsement from the Sector Commander was distributed on September 21 2021 with a final version sent out on October 18th 2021 stating the Sector Commander cannot endorse any religious accommodations for approval predating the submission of religious accommodations which were due October 22nd 2021. The negative endorsement in my RAR follows this same template and fails to even change the pronouns used to describe me.

7. During a conference call on or about September 17th 2021 and memorialized in a September 20th 2021 email (EX4), the Covid Incident management team stated that even if a religious accommodation or medical exemption were approved the member was likely to still be administratively separated. Page 8 of exhibit 38 Brown RAR working file states “the Coast Guard’s goal is to have a fully vaccinated workforce”. This statement, the “optional” questions given to chaplains for RAR interviews, the blanket negative endorsement from Captain Smith in my RAR, statements made by the Chaplain of the Coast Guard Chaplain Walcott that it is unlikely most RAR’s would be approved (EX5, EX6 paragraph 2), and the nearly universal denial of RAR’s and appeals, clearly indicates the RAR process was perfunctory with no serious intention of approving any RAR’s.

8. Admiral Jones states on page 8 paragraph 16 that the Coast Guard would not take administrative or disciplinary action against me. After being informed of the injunctive relief provided to me via the Navy Seal class action suit and subsequently consulting Coast Guard Legal Captain Jason Smith issued a negative 3307 P&D 41-

D to me on June 22, 2022 (EX1), stating I am in violation of article 90 and 92 of the UCMJ. This same document has been issued to all Coast Guard members who have not gotten the Covid 19 shots after having their appeals denied and is being used as justification for their separation for the service. If this document is not disciplinary or an administrative action then Coast Guard members are being separated unjustly under false pretenses. If the negative 3307 is disciplinary and an administrative action then Admiral Jones' statement is false. Further transferring me back to the Navy for appropriate corrective action would be tantamount to firing me from my position, harmful to the Coast Guard members of my sectors, detrimental to the well being of my family, and harmful to my career.

Declaration of Captain Keith Donohue EX

9. Page 3 Paragraph 4 states I was counseled on 26 October 2021 on the requirement to receive the Covid 19 shot and that I indicated I would pursue a RAR. However page 3 Paragraph 5 states accurately I submitted my RAR October 15th 2021 and on October 21 my package was forwarded to CGHQ. I do not know where the 26 October date came from or why it is listed in my 3307 P&D-41C (EX7). It is nonsensical that I would be counseled on submitting an RAR after my package has already been sent to headquarters. This statement is false as this counseling would be documented in a 3307 P&D-41A and no such documentation of this counseling has been produced. The inability of the Coast Guard to accurately convey basic details demonstrates their contempt for the RAR process and religious convictions of its members.

10. Page 3 paragraph 5 notes the Sector Commander Captain Jason Smith was

unable to support my RAR, which as already indicated was predetermined(Ex 3). Further an example is given of Covid 19 infections impacting cutters which is not germane to me as I have not contracted Covid since March of 2020. Members who have taken the Covid 19 shot have continued to contract Covid and impact operations and yet I have not.

11. Page 4 Paragraph 6 states I was ordered on or about about June 9th to receive the “Fully FDA approved Covid 19 vaccine”. I actually received the order, via 3307 P&D-41C³ (EX7) on June 6th was able to sign and acknowledge on June 9th, though oddly it was not dated by Captain Smith. Further when I arrived at the Walgreens at 10850 Scarsdale blvd, as ordered they did not have a Fully FDA approved Covid 19 shot which I communicated via memo.

12. Page 4 paragraph 7 states I received a negative 3307 P&D-41D on June 14th saying I violated article 90 and 92, the dates are incorrect, I received the negative 3307 P&D-41D (EX1) on June 22nd. On June 14th I received an unsigned email from Captain Smith stating that there was no difference between Pfizer and Cominarty according to CG policy and I could make an appointment to receive Cominarty Labeled vaccine on June 15th or be in violation of article 90 and 92. In the email Captain Smith states I expressed I would take a Cominarty labeled vaccine. This is contrary to my repeated statements that the Covid shot violates my God given convictions as reiterated in my memo dated 14 June (EX8), further demonstrating

³ Paragraph 3 of this order to get the Covid 19 shot states A violation of this order may subject you to administrative and disciplinary consequences and is punishable under the UCMJ and is punishable under article 90 and 92. The administrative and disciplinary consequences are the negative 3307 P&D-41D (EX1) I received, in spite of Admiral Jones’ and the DOJ’s claim that no disciplinary or administrative action has been taken against me.

the contempt the Coast Guard has for people of faith and God given convictions.

13. The negative 3307 P&D-41D (EX1) from Captain Smith I received on June 22nd contains false information. It states on 14 June I was ordered to the base clinic by the 15th of June and that I acknowledged this order on May 27th. This is impossible as I cannot acknowledge an order prior to it being given.

14. Page 4 paragraph 9 states I have not had any leave requests denied which is true. However I did not request leave until I was informed by my supervisory Chaplain⁴ it would be approved during the Christmas holiday of 2021, which occurred for all un-vaccinated members in my AOR and was outside the normal operating procedures. It is disingenuous to suggest un-vaccinated members were allowed to travel beyond 50 miles for leave and liberty. In an email dated October 13 2021 I was requested to engage a member from ANT Galveston to complete an RAR in order for him to attend his church 58 miles from his home, such were the restrictions of movement placed upon us. I did not leave the local area for leave or liberty except at Christmas 2021 and after ALCOAST 131/22⁵ returned leave and liberty radius restrictions to local commands. Furthermore during this time I traveled beyond 50 miles regularly for unit visits and mission requirements, even going to Cleveland to conduct a funeral for a member who committed suicide. The contradictory nature travel restrictions for leave and liberty yet permission to travel for mission needs belies any notion the restrictions pertain to health and mission readiness and are instead indicative of the coercive methods used by the Coast

⁴ My leave requests go through my district Chaplain not the Command I am assigned to.

⁵ See page 28 of Admiral Jones Declaration

Guard to compel members to violate their God given convictions.

15. Page 4 paragraph 10 states I must be vaccinated to fully perform my duties at Sector Houston-Galveston. Yet paragraph 3 of Captain Donohue's declaration states I have been fulfilling my duties, and indeed I have and continue to serve faithfully without missing a single day of work due to contracting Covid 19.

16. I have the utmost respect for Captain Donohue and Captain Smith, it is an honor to serve them and all of the Coast Guard. My heart's desire is to continue to serve honorably with my integrity and God given convictions intact.

Brown RAR Working File EX 39

17. On page 3 adjacent to Timely submission, an extension was granted to my appeal timeline and states that I have submitted a FOIA and expressed concern that no extension would be based on the FOIA timeline. This is false I did not submit a FOIA which would be inappropriate, I did not request a public release of my RAR documents. Instead I requested my own documents in order to write my appeal as is my right under the Privacy Act, in a memo dated 10 March 2022 (EX9). In an email from March 21st HQS Policies and Standards granted my extension request and stated timeline extension would not be based on FOIA timelines.

18. Page 3 Note: states that my initial RAR memo was not received until February 7th 2022, however in Captain Donohue's declaration page 3 paragraph 5 he states the Command submitted my RAR on October 21st 2021.

19. Page 3 states the denial of my RAR included a discussion analysis individualized to my particular assignment. This "discussion" amounted to little more than a cut and paste of my job description as was the case for all the RAR

denials⁶. I have not contracted Covid since March of 2020 therefore Covid has not impacted my ability to perform my duties.

20. On page 3 the last paragraph states CG112 provides up to date medical information on Covid 19 and “full vaccination” is the least restrictive means of accommodation. Yet CG112 has not to this point, aligned their guidance with the August 11th 2022 CDC guidance that acknowledges natural immunity. In dismissing natural immunity the Coast Guard does not address the 150 peer reviewed studies I cited in my appeal, nor the T-Cell test I took indicating I am able to create anti-bodies when exposed to Covid. To suggest the EUA⁷ nature of the T-Cell test or antibody test is the height of hypocrisy, given the Coast Guard allows EUA Covid 19 shots to satisfy the vaccination requirement, EUA Covid tests to determine infection, and EUA masks as a precautionary measure. Finally the claim of implementing the most up to date medical guidance is all the more capricious given the Coast Guard’s disregard of CDC recommendations concerning booster doses in order to be “up to date” on Covid vaccination, given the waning efficacy of the Covid 19 shots.

21. On page 4 into page 5 the Coast Guard cites several examples of compelling interest that are generalized and have nothing to do with me or my current assignment. Delays at the Panama Canal and loss of operational time for unnamed cutters cannot be attributed to me since I have not been infected with Covid while serving with the Coast Guard. Particularly when vaccinated and boosted Coast

⁶ Most RAR initial denials had a simple job description in paragraph 4.

⁷ Emergency Use Authorization

Guard members continue to contract Covid and yet I have not. In an email to unvaccinated pilots⁸ dated May 4th 2022 (EX 10), the very mitigation measures the Coast Guard states are ineffective: masking, sanitizing, social distancing, are implemented in order to qualify these pilots to fly again. The Coast Guard members who have submitted RAR's have been fulfilling their duties during the entire RAR process, and these pilots are now permitted to train in order to continue flying. It is clear the Coast Guard can accommodate least restrictive means when they find it convenient.

22. On page 6 the Coast Guard states "In consultation with CG-LCL, member is not included in the class certification". However Page 20 and 21 of the Defendants opposition, the DOJ indicates correctly that I am a member of class as certified by the Texas court.

23. The Coast Guard has demonstrated an inability to get the correct dates on many of my documents, riddled those documents with errors, failed to consider my particular circumstances in adjudicating my RAR, ignored any current CDC guidance or medical literature contrary to their Covid 19 shot imperative, disregarded the injunctive relief of the honorable court in Texas by issuing me a negative 3307 (EX1), and time and again indicated an intent to deny all RAR's. It is unfathomable that my RAR was adjudicated in good faith, the contempt the Coast Guard has for people of faith is clear, and I respectfully implore this honorable court to act on our behalf.

⁸ These un-vaccinated pilots were permitted to attend the training necessary in order to maintain their flight status in spite of the Coast Guard saying they were a threat to readiness.

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 1, 2022

/S/ Justin E. Brown
Justin E. Brown

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
_____	:	

**SUPPLEMENTAL DECLARATION OF CHAPLAIN MAJOR THOMAS
E. FUSSELL**

in response to **LT COL JOSHUA WOLFRAM'S** declaration

Pursuant to 28 U.S.C. §1746, I, Thomas E. Fussell declare as follows:

1. My name is Thomas E. Fussell. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this supplemental declaration in response to Lt Col Joshua Wolfram's declaration regarding the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. It was written on page 4, paragraph 6, "From the time an individual receives his or her first dose of the Food and Drug Administration (FDA) approved COVID-19 vaccine, it takes about one month to become fully vaccinated, and Airmen may

get called to duty on a few days' notice." This statement is misleading. The FDA has approved only one vaccine for use for the military, and it is not available or has even been made. There may have been several that were authorized, but not to the level of approval.

4. In the 88 ABW/JA legal review on Pg 15 of 56, Paragraph 3c it reads, "The RRT, consisting of representatives for 88 ABW/HC, 88 ABW/CC, 88 ABW/MDG, 88 ABW/JA, and 88 ABW/PA, reviewed the request and determined that the request should be denied." –88 ABW/PA was not present for this RRT discussion, nor to observe. There was a point in which HAF/PA instructed their members who were a part of the RRT process to not to participate in the discussion or vote. They were to be present and observe. 88 ABW/PA did not see the point in attending if they were not going to be allowed to participate.

5. 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 2, 2022

/s/ Thomas E. Fussell
THOMAS E. FUSSELL

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

**SUPPLEMENTAL DECLARATION OF LT NATHANAEL A.
GENTILHOMME, CHC, USN**
in response to Lieutenant Colonel Patrick J. Fahey’s declaration

Pursuant to 28 U.S.C. §1746, I, Nathanael A. Gentilhomme declare as follows:

1. My name is Nathanael A. Gentilhomme. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration in response to Lieutenant Colonel (“LtCol”) Patrick J. Fahey’s declaration regarding the Department of Defense and Department of the Navy’s mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. In paragraph three of his declaration, LtCol Fahey states in the last sentence, “Having an unvaccinated chaplain poses risks to the Commands’ sensitive

and important missions by increasing the risk that our limited staff may contract COVID-19.” This statement is inaccurate for the following reasons. In the past three months, multiple Marines at Marine Corps Air Facility (“MCAF”) and Marine Helicopter Squadron One (“HMX-1”), our tenant command, have experienced “break through infections” of COVID-19. All of the MCAF Marines and one Sailor, my own Religious Program Specialist, (“RP”), who got COVID, had previously received the COVID-19 shot. My RP even got a booster shot for COVID. Neither my RP nor any MCAF or HMX-1 Marine got COVID from me. They all got COVID either from another Marine/Sailor, family member, or friend. The Center for Disease Control (“CDC”) itself no longer makes a distinction between vaccinated and unvaccinated people. On its own website, the CDC states, “CDC’s COVID-19 prevention recommendations no longer differentiate based on a person’s vaccination status because breakthrough infections occur, though they are generally mild (16), and persons who have had COVID-19 but are not vaccinated have some degree of protection against severe illness from their previous infection (17)” (<https://www.cdc.gov/mmwr/volumes/71/wr/mm7133e1.htm>). The CDC confirms that those of us who have already had COVID, and yet have not received the COVID-19 shot, do “have some degree of protection,” albeit Dr. Marty Makary, Johns Hopkins University School of Medicine professor said, “The data on natural immunity are now overwhelming. It turns out the hypothesis that our public health leaders had that vaccinated immunity is better and stronger than natural immunity was wrong. They got it backwards. And now we’ve got data from Israel showing that natural immunity is 27 times more effective than vaccinated immunity. And that supports

15 other studies” (<https://www.westernjournal.com/johns-hopkins-doc-says-natural-immunity-27-times-effective-vaccine/>). The natural immunity I have is not just giving me “some degree of protection” it is giving me a superior degree of protection. Based on the CDC’s new guidance, even if I were to spread COVID to a vaccinated Marine/Sailor, the “break through infection,” according to them, should be “mild.” LtCol Fahey’s claim that I, as an “unvaccinated chaplain” somehow am “increasing the risk that our limited staff may contract COVID-19,” is just not substantiated , based on the information I just listed. To restate the point, MCAF and HMX-1 Marines and Sailors are continuing to experience “break through infections” of COVID-19. Regardless of whether I am around them or not, they will continue to get COVID. Much more could be written on this.

4. In paragraph six of his declaration, LtCol Fahey quotes me, from my initial declaration and claims, “LT Gentilhomme has not been prohibited from contact with Marines,” however, this statement is misleading. I never stated that I have been “prohibited from contact with Marines.” What I actually said in the quote that he used is that I continue “...to be barred from carrying out deckplate ministry to our primary tenant command...” Deckplate ministry is when Navy Chaplains walk freely throughout the work spaces of Marines and Sailors, talking, joking, praying with, and at times counseling them along the way. This is what I am presently prohibited from doing in any HMX-1 space. I never stated that I had, “been prohibited from contact with Marines.”

5. Further, LtCol Fahey states in the same paragraph, “He has since been required to acquire permission prior to entering a specific office space due his

unprofessional behavior toward their Commanding Officer...” In hindsight, I have realized there are different ways I could have approached the Commanding Officer (“CO”), like scheduling a meeting, but my behavior in the moment was not “unprofessional.” I addressed him as ‘Sir,’ requested to speak with him, and he invited me into his office.

6. LtCol Fahey also states “The Commander entertained the dialog, but it became unproductive when LT Gentilhomme began openly and abrasively objecting to his logic and his authority as the Commanding Officer in front of his staff.” This information is incorrect for the following reasons. First, one of my jobs as a Chaplain is to bring up issues of concern to commanders, especially as they relate to the religious freedoms and matters of conscience among Marines and Sailors. I was not challenging “...his logic and his authority as the Commanding Officer...” I was doing what I was supposed to be doing as a Navy Chaplain; expressing concern for something that did not appear to be right. Second, my approach and tone in bringing my concerns and question to the CO was respectful and without emotion. I was not abrasive in my interactions with him. Just the opposite is true. The CO became visibly upset, and nearly shouted me out of his office. I had only used a conversational tone, inside the CO’s office. I never argued, once, in response. I took a step back, said “Yes Sir,” and left his office.

7. Next, further down in paragraph six of his declaration, LtCol Fahey states, “...he has only entered the spaces to which he has no restrictions a handful of times over this same period, so his claim that limited access affects his deckplate ministry is exaggerated.” This statement is not true for the following reasons. Since May

2021, I have conducted deckplate ministry visits fifty-two times, totaling fifty-two hours, as reflected in my MCAF.HMX Ministry Tracker Excel document. If I had been able to provide deckplate ministry freely throughout HMX-1 spaces as well, the number of deckplate visits carried out to date most likely would be doubled to over one-hundred. Finally, in a meeting with LtCol Fahey concerning his low scores on my most recent Fitness Report (“FITREP”), he commented on how one reason for him scoring me low is that I am significantly underutilized as a Chaplain, since I do not have access to more than eighty-percent of the personnel I am supposed to be supporting. My claim that limited access to HMX-1 has affected deckplate ministry based on the aforementioned reasons is most definitely not exaggerated.

8. In the last section of paragraph six of LtCol Fahey’s declaration he states, “LT Gentilhomme lost his bearing in a force-preservation meeting (unrelated to COVID-19) with Marines from the command where he expressed his disgust with a service member for her private and personal decisions.” His use of the phrase “lost his bearing” is misleading and his phrase “...he expressed his disgust...” is not true for the following reasons. A senior enlisted leader briefed us on two female Marines, neither of whom were in the meeting, and the topic was abortion. As a born-again Christian, I believe that abortion is murder, as taught in the Bible. Every time I hear of a woman, especially if it is a woman I know, who will have, or has had an abortion, it grieves my spirit. Upon hearing this news in the meeting, I shook my head back and forth and sighed. It was a response of sadness and grief, not disgust. Something that is often taught in the Navy and Marine Corps is that we should always seek to solve problems at the lowest level first. The Medical Officer who

complained about me never addressed his concerns with me first, concerning how he perceived my head-shaking and sighing in the meeting, even though I walked out of the meeting talking with him. Instead, he shared his perception and disapproval of my response to hearing of abortions with others, which eventually made it to LtCol Fahey. Finally, LtCol Fahey wrapped up his comments about this situation with this statement, “When I discussed the incident with LT Gentilhomme, he was intractable in his position and unapologetic.” This statement is actually true, but what it communicates is very concerning. Essentially what this is communicating is that it is unacceptable for me, as a Christian, to show visible concern about abortion. I believe strongly that if the issues had been drunk driving, domestic abuse, or sexual assault, and I had signed and shaken my head, the Medical Doctor would have had zero complaint. Since I am a strong, committed born-again Christian who stands for the sacredness of all human life inside and outside the womb, I was unfairly targeted and LtCol Fahey was displeased that I was “intractable...and unapologetic” in my Christian response and beliefs. As a Christian Chaplain, I am here to ensure the Constitutional right of every service member’s free exercise of religion. This is a right of Chaplains, as well as all other members of the military. We do not check our Constitutional rights at the door when we take the oath of office. Free exercise of religion is not limited to our personal lives, it means free exercise of religion in public and professional settings as well. It is unprecedented that a CO would not stand with his Chaplain on an issue like this, and instead stand in opposition. In the words of Martin Luther, “my conscience is captive to the Word of God. It is unsafe and dangerous to do anything

against one's conscience. Here I stand! I cannot do otherwise. So help me God.
Amen.”

9. Later in paragraph seven, LtCol Fahey states, “Until I have written more reports, a promotion board has no definitive way to determine if LT Gentilhomme is the most proficient and capable officer or least proficient and capable officer in comparison to other officers I have rated, since, as of now, he is the only Navy officer in his grade that I have evaluated.” I understand that he is establishing his reporting senior cumulative average (“RSCA”), however, I explained to him that if he gave me a ‘P’ which stands for ‘Promotable’ as his promotion recommendation, that that alone would most likely come across negatively to a Navy promotion board, and would guarantee that I not get promoted this cycle and possibly in the near and distant cycles as well. Even though I educated him on the negative implications of that promotion recommendation when viewed by a Navy promotion board, he remained resolved to give me a ‘P.’ Contrary to what he states, yes, a promotion board does have a definitive way to determine whether or not they believe me to be a capable officer if they see a FITREP that merely has a ‘P’ for promotion recommendation status.

10. Finally, LtCol Fahey states in his last sentence of paragraph seven, “...LT Gentilhomme has not been punished or limited in any way as a result of his vaccination status...” This statement is not completely accurate for the following reasons. As a Navy Chaplain taking care of Marines who has not gotten the COVID-19 shot, I was banned from HMX-1 for advocating for those who did not want it during its voluntary status, and I was eventually barred from conducting Religious

Accommodation Request (“RAR”) Interviews with HMX-1 Marines/Sailors, a requirement for all RAR candidates, per Marine Corps Order 1730.9

Accommodation of Religious Practices in the Marine Corps. I expanded more on this incident in my original Declaration. HMX-1 continued to allow their Marines to come to me for counseling for everything, except when it came to conducting RAR interviews. I believe that restriction was placed on me personally because I have not received the shot, and I support others who also do not want it for matters of conscience or religious beliefs.

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 01, 2022

/s/ Nathael A. Getilhomme
Nathanael A. Gentilhomme

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

SUPPLEMENTAL DECLARATION OF CHAPLAIN (CPT) DOYLE G.
HARRIS

in response to COL KEVIN J. MAHONEY, Plans and Operations Officer,
U.S. Army Medical Command, Falls Church, Virginia declaration

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

1. My name is DOYLE G. HARRIS. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration in response to COL KEVIN J. MAHONEY, Plans and Operations Officer, U.S. Army Medical Command declaration regarding the Department of Defense and Department of U.S. Army mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. In para 5 COL Mahoney correctly states that service members are allowed to voluntarily choose one of several current EUA vaccinations on the market, and he

correctly states that according to policy, mandatory vaccination can be compelled only with a product that is fully licensed by the U.S. Food and Drug Administration (FDA). Currently the only product that fits this criteria is the COMIRNATY-labeled product from Pfizer-BioNTech. However, this very specific vaccine is not widely available, and definitely not available on Okinawa, Japan. Therefore, every single service member on Okinawa, regardless of service, who has complied with this mandate has been given no choice but to take an EUA vaccine as COMIRNATY has never been available here. Despite this non-availability here, throughout my time with this current command (78th SIG) I have seen commanding officers and senior enlisted personnel again and again isolate both Soldiers and fellow officers with threats such as “You have till noon tomorrow to get to the Camp Foster hospital and get vaccinated” or, “You won’t be able to take leave or attend military schools or other military training events until you are vaccinated” and, “If you remain unvaccinated you could make someone else in your family very sick.” In my original declaration, I spoke of these extremely coercive tactics and to this day believe that the Army acted in bad faith towards Soldiers who have had genuine religious or conscientious concerns. Before the August 2021 mandate I emailed the IG due to these coercive actions (documentation filed in my original Declaration), but in the end chose not to file a complaint as the battalion CDR was changing. In error, I thought the overall climate would improve.

4. At the end of para 6 COL MAHONEY states, “The intent of this authorization is to protect the health and overall effectiveness of the command, as well as the health and medical readiness of the individual Soldier.” I object to the

characterization of this statement. COVID-19 has mutated countless times. In Japan specifically, the Alpha strain didn't appear to affect our AO as direly as the Delta strain. After Delta subsided, we had Omicron and have now moved on a couple more times. Especially with Omicron it was widely reported that transmissibility was higher, yet serious illness was far lower. At the height of Omicron, the USAR-J area of operation (Mainland Japan and Okinawa) had only 12 Soldiers who had remained unvaccinated and yet in a 10-day span of time more than 1,000 positive COVID cases were recorded. It is patently absurd to claim that these 12 Soldiers caused those positives. This data, and the continued infection among fully vaccinated Soldiers, proves that vaccination has not been proven "to protect the health and overall effectiveness of the command, as well as the health and medical readiness of the individual Soldier." Recently, the CDC amended their official guidance to state that vaccinated and unvaccinated should be treated the same. As the science has 'evolved' the U.S. Army's position and that of the Secretary of Defense have not. I believe this, and other aspects of our case, definitively show that the chief concern at the top is not "the health and medical readiness of the individual Soldier" or "the overall effectiveness of our commands" as COL MAHONEY states, but rather a purge of those in our military services whose conscience does not line up with the thoughts of those at the top. If we do not stop this here in the courts, where will this limitation on religious conscience, accommodation, and liberty end?

5. In para 8 COL MAHONEY again claims vaccination is needed, "...to ensure Soldiers and units are ready to fight and win...this is a readiness, health, and

welfare priority for the total Army.” In direct contrast to this, I myself (as well as others in this case) have tested positive for COVID-19. In my case, I had zero symptoms, and now have natural immunity. In contrast to this, I have witnessed many fully vaccinated Soldiers (some boosted) miss multiple days of duty due to significant symptoms during breakthrough cases. This begs the question, why am I considered a threat to “readiness, health, and welfare” when they are not? There was, and is, nothing wrong with my “readiness, health, and welfare.”

6. In para 9 COL MAHONEY states, “In accordance with paragraph 3.D.8., the Army will conduct mandatory COVID-19 vaccination operations of unvaccinated Soldiers with the FDA-approved vaccine, and continue voluntary vaccination with other vaccines authorized for emergency use.” According to this quote every single service member in the USAR-J area of operation should have fallen under voluntary vaccination rather than mandated, as only EUA vaccines have been available here. As recently as 26 May, 2022, I presented myself in person at the COVID-19 vaccination cell at US Naval Hospital Camp Foster to ask if they had the COMIRNATY-labeled vaccine, and I was told they did not have that product. (MFR included in original declaration)

Later in para 9, COL MAHONEY states that “commanders will not take adverse action against Soldiers with pending exemption requests.” According to FRAGO 5 COL MAHONEY states the official policy correctly, however, further FRAGO’s enabled commanders to take adverse actions labeled as “administrative actions.” In my case, FRAGO mandates have forbidden me from traveling TDY to other locations where the 78th Signal Battalion has Soldiers. Traveling to provide

Religious Support to my Soldiers at these locations is one of the critical aspects of my job. This adverse action against me severely limited my ability to adequately provide for these Soldiers. This forced inability to provide in-person Religious Support, Chaplain Ministry of Presence, and programming to these Soldiers, resulted in a negative effect on my Officer Evaluation Report (OER). This travel issue was mentioned as problematic multiple times by my commander in my annual counseling. I don't blame my battalion commander personally for this as he was following directives above his level, but I do sincerely believe it significantly lowered the quality of my annual rating. Another adverse action, under the guise of "administrative action," was the revocation of my PCS orders (despite there being no current travel restrictions for unvaccinated persons traveling to the United States), a month after I had received them and had already scheduled HHG shipments and been placed on the housing wait list at my inbound duty station. Therefore, I was unable to PCS during my normal summer move cycle of July 2022, causing my family to miss the opportunity to get settled in a new location prior to the start of our teenage son's freshman year of high school. On top of not being allowed to PCS, my replacement was still identified and sent to replace me. Currently, we are double-slotted in the single chaplain position for this battalion, splitting the duties between the two of us. This is yet another "administrative action" that in reality is an adverse action that is harming both of us as we are rated against other staff captains in the battalion and against each other while trying to do the same job. In further adverse actions against me, my replacement has been named the "Primary Chaplain" by my command, relegating me to a

secondary role, which negatively impacts my future OER rating. I have been required to relinquish the duty phone to the other chaplain, severely limiting the ability of Soldiers to reach out to me and for me to perform functions of my job. I was also instructed to vacate my office, being moved into a secondary space.

7. In para 14 COL MAHONEY states, "...the approval authority for permanent medical exemptions is the TSG. TSG has delegated this authority to Regional Health Command-Commanding Generals (RHC-CG), with no further delegation authorized. All requests for permanent medical exemptions must be staffed to the RHC-CG with the healthcare provider's recommendation either to approve or deny the permanent exemption." In early March 2022, I came to the conclusion that I desired to seek a medical exemption due to my documented medical diagnosis. I reached out to my PCM at the U.S. Naval Hospital on Camp Foster for assistance. She seemed reluctant to process this request but after multiple e-mails and phone calls I convinced her of the sincerity of my request. She officially sent the request up to the chief physician of family medicine, Dr. Lyons. I later received a phone call from the front office staff stating that my request did not meet the criteria. I requested an in-person meeting with Dr. Lyons which was scheduled for 18 May 2022. After petitioning for my request to be sent up, he relented, telling me that it would not be accepted. The next day, I received an email from my PCM informing me that a doctor at Tripler Army Hospital in Hawaii, had declined to grant my request. This clearly goes against the process laid out by COL MAHONEY. My request for a medical exemption was stopped at the level of two doctors at Tripler Army Medical Center, rather than being sent through to the Regional Health

Command-Commanding Generals (RHC-CG), with a further option for me to appeal to TSG. (see personal memo and email dated 19 May, 2022).

8. Para 22 highlights the fact that to date the U.S. Army has approved 16 Religious Accommodation Requests with an additional 3 being approved by the ASA M&RA upon appeal. Many, if not all, of these 19 approved accommodations belong to Soldiers who are in the process of retiring. This number of 19 compared to the believed 15,000 total RA requests received, leads one to believe that there actually is a uniform policy of presumptive denial being pushed down from the highest positions of governmental authority to include, but not limited to, the SECDEF Lloyd Austin III. These paltry approval numbers do not support current federal law and Department of Defense Instruction (DoDI) 1300.17, which speaks about the government using the least restrictive means of furthering their interest.

9. The AR 600-20 process of filing a Religious Accommodation Request required a counseling statement from the service member's Patient Care Manager (PCM). When I received my PCM's counseling, I also asked about filing for a medical exemption as my situation includes medical and religious aspects woven into a single request. During that encounter, my PCM (P.A. Sarah Begley), stated that if I at a later date wanted her assistance in filing a medical exemption she would assist me through that process.

10. On 03 March 2022, I reached the conclusion that I desired to request a Medical Exemption. I emailed P.A. Begley stating such, and that I would be emailing additional information later. On 24 March, I sent P.A. Begley an email with 3 attachments I wanted included in this process. After hearing nothing back by

4 April, I emailed to inquire again. By 12 April 2022, I still heard nothing, so I called the hospital and set up a phone consultation which took place the next week after P.A. Begley returned from her sick leave. During that phone consultation P.A. Begley told me she had reviewed my information and needed to upload my documents for a Rheumatologist at Tripler Army Hospital, but needed to consult her department head (family medicine) at Camp Foster Naval Hospital. On 3 May 2022, she called me to tell me that my situation didn't fit the Army-defined category that qualified for a medical exemption. She said she was sorry but had helped all she could.

11. 18 May 2022, I met with the family medicine department head, Dr. Lyons. He explained that while my Fibromyalgia/Chronic Pain/Chronic Fatigue may indeed be an Autoimmune disease, there is still so much about this "nerve disease" that we just don't understand. Nevertheless, as I'm not being treated with immunosuppressant therapies (i.e. steroids) for my medical situation he didn't think my case fit the exemption criteria. I stated that it is still my right to ask, and this was no different than requesting a second opinion. He relented and stated that he would submit my request forward for consideration and that he would be sending me updates in the future. I provided him the Pfizer document on Autoimmune case increases after COVID vaccination and the DMED data that I had earlier submitted to P.A. Begley. He stated that he would upload that information for their review.

12. 19 May 2022, I received an e-mail from my PCM, Sarah Begley, stating that my medical exemption has been denied. (Email included)



Debbie Harris <harrismay27@gmail.com>

FW: RHEUMATOLOGY RESPONSE (UNCLASSIFIED)

1 message

Harris, Doyle G CPT USARMY 516 SIG BDE (USA)
<doyle.g.harris.mil@army.mil>
To: Debbie Harris <harrismay27@gmail.com>

Thu, Sep 1, 2022 at 8:57 AM

CLASSIFICATION: UNCLASSIFIED

From: Begley, Sarah B LT USN NAVHOSP OKINAWA JA (USA) <sarah.b.begley.mil@mail.mil>
Sent: Thursday, May 19, 2022 8:26 AM
To: Harris, Doyle G CPT USARMY 516 SIG BDE (USA) <doyle.g.harris.mil@army.mil>
Cc: Lyons, Jordan W LCDR USN NAVHOSP OKINAWA JA (USA) <jordan.w.lyons.mil@mail.mil>
Subject: RHEUMATOLOGY RESPONSE
Importance: High

Good Morning Chaplain Harris,

Please see the below response from the TAMC Rheumatologist regarding your case. At this time a medical waiver is not indicated. Please reach out if you have any additional questions!

ALLERGY IMMUNOLOGY/TRIPLER ARMY MEDICAL CENTER/ALLERGY IMMUNOLOGIST (BELNAP, CONRAD) 19 MAY 2022 02:59 JST TYPE: CLINICAL PRINT 4

I have read and reviewed the information above.

There is no medical reason for this patient to avoid receiving the COVID-19 vaccine.

We Strongly encourage this patient to receive the vaccine as soon as possible.

It will not only protect him, but will also help protect the fighting force.

*Diagnosis: Person with feared health complaint in whom no diagnosis is made(Z71.1)
E&M: 5-29min (99451-GQ)*

RHEUMATOLOGY/TRIPLER ARMY MEDICAL CENTER/RHEUMATOLOGIST (ROBERTS, JEFFERSON) 19 MAY 2022 05:17
JST TYPE: CLINICAL PRINT 5

I have read and reviewed the information above.

Patient's condition as listed above is not a reason to avoid COVID-19 vaccination. Agree with above.

Jefferson Roberts, MD
COL, MC, USA
Chief, Rheumatology
Tripler Army Medical Center

*Diagnosis: Fibromyalgia(M79.7)
E&M: 5-29min (99451-GQ)*

Very Respectfully,

Sarah Begley, PA-C

LT MSC USN

Physician Assistant

Family Medicine Department

US Naval Hospital Okinawa, Japan

CLASSIFICATION: UNCLASSIFIED



DEPARTMENT OF THE ARMY
78th SIGNAL BATTALION
UNIT 45912
APO, AP 96343-5012

NETC-SPN

19 May 2022

MEMORANDUM FOR RECORD

SUBJECT: Medical Exemption Process for CH (CPT) Harris, Doyle

1. The AR 600-20 process of filing a Religious Accommodation Request required a counseling statement from the service member's Patient Care Manager (PCM). When I received my PCM's counseling, I also asked about filing for a medical exemption as my situation includes medical and religious aspects woven into a single request. During that encounter, my PCM (P.A. Sarah Begley), stated that if I at a later date wanted her assistance in filing a medical exemption she would assist me through that process.
2. On 03 March 2022, I reached the conclusion that I desired to request a Medical Exemption. I emailed P.A. Begley stating such, and that I would be emailing additional information later. On 24 March, I sent P.A. Begley an email with 3 attachments I wanted included in this process. After hearing nothing back by 4 April, I emailed to inquire again. By 12 April 2022, I still heard nothing, so I called the hospital and set up a phone consultation which took place the next week after P.A. Begley returned from her sick leave. During that phone consultation P.A. Begley told me she had reviewed my information and needed to upload my documents for a Rheumatologist at Tripler Army Hospital, but needed to consult her department head (family medicine) at Camp Foster Naval Hospital. On 3 May 2022, she called me to tell me that my situation didn't fit the Army-defined category that qualified for a medical exemption. She said she was sorry but had helped all she could.
3. 18 May 2022, I met with the family medicine department head, Dr. Lyons. He explained that while my Fibromyalgia/Chronic Pain/Chronic Fatigue may indeed be an Autoimmune disease, there is still so much about this "nerve disease" that we just don't understand. Nevertheless, as I'm not being treated with immuno-suppressant therapies (i.e. steroids) for my medical situation he didn't think my case fit the exemption criteria. I stated that it is still my right to ask, and this was no different than requesting a second opinion. He relented and stated that he would submit my request forward for consideration and that he would be sending me updates in the future. I provided him the Pfizer document on Autoimmune case increases after COVID vaccination and the DMED data that I had earlier submitted to P.A. Begley. He stated that he would upload that information for their review.
4. 19 May 2022, I received an e-mail from my PCM, Sarah Begley, stating that my medical exemption has been denied. (Email included)

1

SUBJECT: Medical Exemption Process for CH (CPT) Harris, Doyle

5. The POC of this memorandum is CH (CPT) Harris, Doyle at 080-7116-0548 or doyle.g.harris.mil@army.mil

Doyle G. Harris
Chaplain (CPT), USA
78th Sig BN Chaplain

2

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 1, 2022

/S/ DOYLE G. HARRIS
DOYLE G. HARRIS

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
_____	:	

**SUPPLEMENTAL DECLARATION OF CHAPLAIN, CAPTAIN
JEREMIAH P. HENDERSON**
in response to **Lt Col Shawn Schulz** declaration

Pursuant to 28 U.S.C. §1746, I, JEREMIAH P. HENDERSON, declare as follows:

1. My name is JEREMIAH P. HENDERSON. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this supplemental declaration in response to Lt Col Shawn Schulz declaration regarding the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. First and foremost, I will state that Lt Col Shawn Schulz is an exemplary Commander, following Air Force instruction to the best of his ability. We have a

very good working relationship, and it is my privilege to serve with him. It was said in his response that although I was on the final Vulnerable to Move List (VML) last fall for a Permanent Change of Station (PCS), assignments are not guaranteed, which is true. However, I called the Chaplain assignments section of Air Force Personnel Center (AFPC), and I was told directly that my vaccination status was the deciding factor which prevented me from receiving an assignment per the AF/A1 memo, dated 23 Nov 2021. Because it was determined that I had a sincerely held religious belief and travel restrictions had been lifted for all military members, the denial of a Permanent Changes of Station (PCS) was being used to religiously discriminate against me and others who challenged the COVID-19 vaccination policy. This official travel restriction policy cannot reasonably be defended as a risk mitigation policy as vaccinated and unvaccinated members were travelling without restriction on leave. It is my opinion, that the policy was intended to discipline unvaccinated members and provide coercive pressure to force vaccine compliance. Permanent Changes of Station are mission essential and play a significant part in every servicemembers career development and future opportunities. In the very least, it negatively impacted the rate of upward career progression, which will have a long-lasting effect on the career advancement of those who were in the religious accommodation request (RAR) process. For some members, this policy prohibited them from attending required Professional Military Education (PME). In my case, I did not apply for or pursue application to Squadron Officer School (SOS), which is a career advancement training requirement because of the official travel restriction. It should be noted that Department of the Air Force Instruction (DAFI) 52-201

states: “1.3. A member’s expression of sincerely held beliefs may not be used as the basis for any adverse personnel action, discrimination, or denial of promotion; and may not be used as a basis for making schooling, training, or assignment decisions. (T-0).” And yet, my documented and affirmed sincerely held religious belief was used for this very purpose in accordance with the AF/A1 policy memorandum.

4. In addition to being denied PCS last fall, I was not permitted to go to my required annual Chaplain endorser conference in a temporary duty (TDY) or permissive temporary duty (PTDY) status, as mentioned by Lt Col Schulz. For this requirement, I had to use personal leave (normally used to vacation/visit family) and paid for the trip with my own money and some financial support provided by my endorser. Air Force Instruction (AFI) 52-101 upholds the requirement for Chaplains to maintain their credentials and attend mandated endorser trainings. AFI 52-101 states: “3.1.1.5.1. Chaplains must comply with the requirements of their ecclesiastical endorsing organization. (T-0). 3.1.1.5.2. Endorsing religious organizations may require attendance at endorser sponsored or endorser-approved meetings and/or training events for chaplains endorsed by the organization. 3.1.1.5.2.1. Endorser-Mandated Events. When endorsing organizations mandate attendance at training, meetings, consultations, or other events, the event is an Air Force requirement and temporary duty is authorized. Wing chaplains may authorize assigned chaplains to attend one funded event per year. A lack of funds is not a valid reason to authorize permissive temporary duty for endorser-mandated events.”

4. I informed my leadership of the endorser training requirement in January 2022 and requested permission to attend, and I received denial via email in June 2022 with the AF travel restriction for unvaccinated members as justification. I provided reference to the above AFI 52-101 and my ecclesiastical endorser's written guidance that the training was a endorser requirement for all Christian and Missionary Alliance Chaplains. My leadership was kind enough to approve leave to allow me to attend the required conference on my personal time using my own finances after I was denied an Exception to Policy (ETP) in regard to official unvaccinated member travel.

4. I am thankful that I have not been restricted in my official duty as a Chaplain on Holloman Air Base in recent months. In fact, I recently was awarded Company Grade Officer of the Quarter for the 49th Wing Staff Agencies for the period of April through June of 2022.

5. I have received a temporary medical exemption that now extends to August 1, 2023. I was diagnosed with Acute pericarditis in July 2022, which is inflammation of the pericardium surrounding my heart. The symptoms began after I received the Anthrax shot before deploying in April of 2021 (this is a pre-deployment requirement). The condition has significantly hindered my overall health, though it has not prevented me from performing at a high-level as a Chaplain due to the non-physically demanding nature of my work. I was treated with Anti-inflammatory drugs while on deployment for the condition which remained unknown at that time. I reported to my leadership that I was having chest pains and sought additional treatment after returning to normal home station

duties beginning in January of 2022. I inquired about medical exemption from the Holloman Clinic on several occasions, but was not given a clear path to officially apply for a medical exemption despite several verbal and written attempts to seek relief. In July 2022, after analysis of several cardiac tests and with consideration to my symptoms, Dr. Miller, my cardiologist whom I was referred to by the Holloman clinic and Tricare, provided the diagnosis of Acute Pericarditis and confirmed that this condition is a documented adverse reaction to the Anthrax vaccine. It is also contraindicated for the COVID-19 vaccine, and therefore she recommended I be given a medical exemption, which has been honored by my Primary Care Provider (PCM) at Holloman Clinic. I am currently receiving treatment for acute pericarditis.

5. The long-term problem with my temporary medical exemption is that it could be removed at any time, and I would once again be subject to discipline and potentially administrative discharge.

6. 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. Thank you in advance for your careful consideration of this declaration.

SEPTEMBER 2, 2022

/S/ Jeremiah P. Henderson
JEREMIAH P. HENDERSON

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

**SUPPLEMENTAL DECLARATION OF CHAPLAIN CAPTAIN RYAN P
JACKSON**
[in response to Colonel Daniel C. Diehl Declaration]

Pursuant to 28 U.S.C. §1746, I, Ryan P Jackson declare as follows:

1. My name is Ryan Peter Jackson. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration in response to Colonel Daniel C. Diehl’s declaration regarding the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19 and the process of my religious accommodation request.

3. Colonel Diehl has well explained the general responsibilities of my position as chaplain in the United States Air Force and the 509th Bomb Wing at Whiteman Air Force Base, Missouri. He is correct on my responsibilities in

part. However, facilitating religious worship and rites, providing religious accommodation, pastoral care, unit engagement, counseling, spiritual care, officiating weddings, and presiding over funeral services, by regulation never requires me to touch an Airman or to be within 6 feet of them. Like the other chaplains, I have engaged with and supported the Airmen of the 509th Operations Group and Airmen from all the other groups on base as well, during the entirety of the COVID pandemic. I have served them in the workplace, chapel offices, or other locations without hinderance or missing work due to quarantining and/or remote working. However, the majority of the other chaplains have been out of the office for COVID sickness or close contact and yet they were fully vaccinated. During some of those times, I filled in for them as I remained in good health. Additionally, in my role as a counselor, I have conducted in-person interaction with service members and their families, from one-on-one meetings to group sessions and retreats at off-base venues, during the COVID-19 pandemic. I have not contracted COVID, nor have I missed even one day of work due to close contact with a COVID-infected person. Further, I have successfully managed Whiteman Air Force Base's "Stealth Lounge" Airman Ministry Center with regular newly recruited volunteers who organize and execute weekly events out of the center. We serve meals and regularly conduct gatherings at the Stealth Lounge and therefore keep a log of personnel that come through the doors,

but not once did I close the Stealth Lounge or have to call others who attended for close contact quarantining.

4. It has been stated in my initial denial that I was disapproved in part because I cannot do my job by working remotely. I refuted this in my appeal by explaining that I have accomplished my duties well and *not* worked remotely nor contracted or spread COVID during the entirety of the pandemic. I understand that my case is not typical of everyone, yet the arguments from my appeal were not even addressed in my appeal denial. When I submitted my appeal, Colonel Diehl stated to me that he passed it up the chain of command, but did not read it himself. He was following the process that had been laid out for him, and I do not hold him responsible for the procedures in place. I simply declare this here because, based on the details in the appeal denial, it is clear that no one at any level of the chain of command read my appeal. The appeal denial simply *restated* the reasonings from the initial denial and completely ignored the new, updated information I included in my appeal.

5. To address deployment and travel, Colonel Diehl explains that even with a religious accommodation, Air Force policy states that I would not be able to travel. This policy does not take into consideration that I have traveled multiple times via commercial air on leave during the pandemic, free from infection or close contact or quarantining. Before the mandate was in

effect, I deployed stateside with the 393rd Bomb Squadron to Nellis Air Force Base, January to February 2021 and was not even required to quarantine before or after. I did this with an entire unit, and I was unvaccinated.

6. It is important to note that the majority of what I have addressed in this declaration was previously stated plainly in my religious accommodation request appeal. This indicates that religious accommodation requests and appeals for COVID-19 vaccinations are being disregarded and denied without careful consideration of their content. I have spoken to many Airmen who have shared similar stories of their appeals being disregarded and not answered, yet they had serious, credible, and extensive data included in them.

7. 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 2, 2022

/s/ Ryan Peter Jackson

Ryan Peter Jackson

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

**SUPPLEMENTAL DECLARATION OF CHAPLAIN CAPTAIN
ROBERT J. NELSON**

Pursuant to 28 U.S.C. §1746, I, Robert J. Nelson declare as follows:

1. My name is Robert J. Nelson. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration to reflect new adverse administrative action regarding the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. I was notified on August 26th, 2022 that my assignment at Pope Army Airfield was supposed to be added to the Air Force list of assignments for requisition. I was initially chosen to fill a three-year special assignment in True North that began August 26, 2021 at the 18 Air Support Operations Group. I was

the first Chaplain to open up and break ground for this position in the Group. Only sixteen True North positions are available in the Air Force to the most qualified chaplains. Through True North, Air Force chaplains are embedded in high operations tempo units to offer direct care for airmen and families. Since I have been unable to travel and visit units across the 18 ASOG in Fort Drum, Fort Campbell, Fort Stewart and elsewhere, it was apparently decided to curtail my orders. The personnel documents I can see indicate that I will be vulnerable to move in the summer 2023 PCS season. The inability to visit my units for a disease that is no longer a threat continues to limit care to my units. The abrupt change in orders will damage my career.

4. I am currently a probationary officer. Any officer under six years of service can be separated without reason nor option for a board of inquiry. Since my orders to Pope Army Airfield will be curtailed, my two year active duty service commitment will end August 2023. It is possible that USAF could chose to separate me without giving me a new assignment ending my career.

5. I was informed on September 1st, 2022 that my appeal to the denial of my religious accommodation request was denied by USAF Surgeon General Robert Miller. Although he mentions that he has “carefully reviewed” my request, I do not see any indication that he has done so, because he has not addressed any of my concerns about the morality and safety of the COVID vaccines which continue to have profound mental, physical, and spiritual effects on the readiness of the USAF. The mantra has not changed, but the growing evidence of science proves the vaccines are not effective. Former White House COVID-19 response coordinator,

Deborah Birx, said on Your World With Neil Cavuto, “I knew these vaccines were not going to protect against infection...”ⁱ How can the USAF Surgeon General continue to operate under the same guidance when a greater civilian authority in the White House, Deborah Birx, can admit that the vaccines do not protect people from catching COVID-19?

6. 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 1, 2022

/S/ Robert J. Nelson
Robert J. Nelson

ⁱ <https://www.foxnews.com/media/dr-deborah-birx-knew-covid-vaccines-not-protect-against-infection>

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	
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**SUPPLEMENTAL DECLARATION OF CHAPLAIN MAJOR RICK H.
PAK**

Pursuant to 28 U.S.C. §1746, I, Rick Hyok Pak declare as follows:

1. My name is Rick Hyok Pak. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration to reflect new adverse administrative action regarding the Department of Defense and Department of Army mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. Army directive 2022-02 (Personnel Actions for Active-Duty Soldiers Who Refuse the COVID-19 Vaccination Order and Accession Requirements for Unvaccinated Individuals) dated 31 January 2022, states in paragraph 4.i. the following, “Unvaccinated Soldiers who are pending a medical or administrative

exemption (to include religious accommodation) will not PCS. Exceptions may only be approved by the Under Secretary of the Army.”

4. Additionally, Army HQDA EXORD 225-21 (FRAGO 22) COVID-19 Steady State Operations dated 12 May 2022, states in paragraph 3.C.6.A.1. the following, “Soldiers who are not fully vaccinated are ineligible to PCS without advanced approval from the Under Secretary of the Army.” The inability to PCS will permanently impact my career as an Army Chaplain and significantly weaken my potential for promotion.

5. I am currently serving my three-year utilization as the USAG Bavaria Family Life Chaplain. My utilization will be complete on 23 January 2023. Before the above stated PCS restrictions, I was scheduled to PCS during the winter of 22-23. Furthermore, my replacement as the USAG Bavaria Family Life Chaplain has orders to report on 24 January 2023.

6. Once my replacement arrives, I will be placed out of the official authorized job position as the Family Life Chaplain and moved into an un-official unauthorized role. This move will negatively impact my annual Officer Evaluation Report due to my rated time in an un-official position.

7. During my utilization as the USAG Bavaria Family Life Chaplain, I have received two “Most Qualified” Officer Evaluation Reports. “Most Qualified” is the highest ranking/category in the Officer Evaluation Report format. Being in an unauthorized un-official job position will make it next to impossible to receive a “Most Qualified” Officer Evolution Report.

9. Moreover, the ability to PCS would have accorded me the opportunity to broaden my career by becoming a Brigade Chaplain for an operational unit. Being a Brigade Chaplain in an operational unit would have strengthened the likelihood of career advancement and promotion.

10. Earlier this year, my assignments officer notified me through email that I was being considered to be a brigade chaplain for an operational unit at FT. Campbell, Kentucky, but due to my “unvaccinated” and non-PCS status that position became unavailable. My assignments officer also added that exceptions to PCS were being approved at an extremely low rate.

11. I want to state that the inability to PCS is an adverse administrative action and punitive that will unfavorably influence my career and standing as a chaplain in the United States Army.

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.

August 31, 2022

/S/ Rick Pak
Rick Pak

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

**SUPPLEMENTAL DECLARATION OF
CHAPLAIN MAJOR DARREL LANCE SCHRADER**

Pursuant to 28 U.S.C. §1746, I, DARREL LANCE SCHRADER declare as follows:

1. My name is Darrel Lance Schrader. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration in response to Lt. Gen Kevin B. Schneider’s, Ch, Maj Gen Randall E. Kitchens’, and Col Terri A. Jones’ declarations regarding the Department of Defense and Department of Air Force’s mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

**In response to Lt. Gen Schneider’s and
Ch, Maj Gen Kitchens’ declarations (65-23, 24)**

3. Concerning the declaration by Lt Gen Schneider and Ch, Maj Gen Kitchens in response to paragraph 21 of my original declaration: I included the statements in para 21 to highlight that, first, I was told my RAR was used in some manner to prepare the AETC/CC for the meeting on the topic at the Corona conference. I do not know the reason why he was provided my RAR to prepare, or what was discussed at the meeting in which my RAR served as part of his preparation. Lt Gen Schneider has confirmed that the Executive Session with COVID-19 vaccination and religious accommodation requests on the agenda took place. My concern is that my personal information, meant for my RAR, was used beyond the scope in which it was intended and potentially against me and/or other Airmen in the discussion at this meeting to coordinate the denial of RARs across the Air Force.

4. Second, the Air Force Chief of Chaplains, the Air Force's senior-most Chaplain in the Chaplain Corps (the Corps whose core responsibility is to "advise leaders at all echelons on all matters pertaining to religion and the accommodation of practice arising from religious faith, ethical decision-making, moral reasoning, and morale concerns",¹) was not asked to participate in the session discussing religious accommodations, which he stated both during his Nov 2021 visit to AFCCC and in his declaration, and was confirmed by Lt Gen Schneider.

In response to Col Terri A. Jones' declaration (65-44)

5. In paragraph four she identifies me as a faculty member at the Air Force Chaplain Corps College (AFCCC) and in paragraph four she outlines my duties.

¹ AFI 52-101 Para 1.2.2

These duties are taken directly from my 31 Jan 2022 Referral (negative) Officer Performance Report (OPR) given to me on 31 Mar 2022 and signed by her on 6 Apr 2022. These are not all typical faculty duties of a Staff Chaplain at the AFCCC, but represent the revised, special duties created for me, excluding me from faculty responsibilities such as course direction and class instruction. I have been sidelined as a faculty member of AFCCC.² If, as Col Jones states, these are the duties that are expected of me, then there should be no reason to deny my RAR as these duties have been tailored to me precisely because my leadership understands them to be duties I can safely do with my religious beliefs concerning the vaccine.

6. For example, the duty of “assisting the Civilian Director of Curriculum Development in reviewing and maintaining all course curriculum plans” and “serving as primary evaluator of faculty instruction” are tasks assigned to me after I received the LOC.

7. In paragraph six of Col Jones’ declaration, she states that the COVID-19 vaccine is a medical readiness requirement for performing my duties at home station. As I pointed out in the previous paragraph, the duties she has listed as my home station duties are all duties specifically given to me because they can be accomplished without the COVID-19 vaccine. Therefore, although she has stated that there are no less restrictive means, she has provided me with less restrictive means with this job description.

² With the exceptions outlined in para 49 of my declaration (motion 57-10).

8. In paragraph six Col Jones includes a list of some activities chaplains perform to ensure Service members serving in remote areas have an opportunity to exercise their faith. She lists hosting worship services, providing spiritual counseling, and providing religious rites. Col Jones is asking me to participate in these and other rites, rituals, and ceremonies while being vaccinated. I have explained that I cannot participate in these rites, rituals, ceremonies, etc. while being vaccinated. The vaccine requires action that violates my conscience, moral principles, and religious beliefs that are protected under article 533 of the 2013 NDAA. Col Jones seems content to deny my religious freedom so that I may provide for the religious freedom to others.

9. In paragraphs six through nine Col Jones again mentions my deployment requirement. As previously declared, I deployed from July 2020-Feb 2021, before any vaccines were available. I was able to accomplish all the duties Col Jones lists and then some with no impact on the religious mission or the combat mission.³

10. In paragraphs six through nine Col Jones mentions the theoretical threat to me becoming sick and dying in a deployed environment and the impact that would have on the section and mission. As previously stated, I have yet to test positive for antibodies, or T-cell immunity from the COVID-19 virus, therefore it is theoretical that I ever will contract COVID-19, and theoretical that I may become so ill as to not contribute to the mission or die.

³ Motion 57-10, paragraph 33.b.

11. In addition, the CDC has recently said that “medically significant illness, death, and health care system strain can be reduced through vaccination and therapeutics to prevent severe illness, complemented by the use of multiple prevention methods to reduce exposure risk and an emphasis on protecting persons at high risk for severe illness.”⁴ In my RAR in paragraph six⁵ and my RAR appeal in paragraph 13⁶ I outline what the CDC now admits and that I am under the care of a family physician and our family has been taking preventive therapeutics.

12. In paragraph eight, Col Jones says threat of sickness in a deployed environment is more serious than at home station. The CDC has recently said “Receipt of a primary series alone, in the absence of being up to date with vaccination* through receipt of all recommended booster doses, provides minimal protection against infection and transmission.”⁷ To date the DoD has not mandated booster doses, therefore service members everywhere are only minimally protected. Therefore, I am no more of a danger to the mission than a member who is not boosted and not prohibited to deploy. I have been repeatedly exposed to COVID-19 without contracting the virus, but I am to be considered even less protected than the “minimally protected” fellow service members who have been vaccinated (but not boosted) but have still contracted the virus, to say nothing of those who have been boosted but have still contracted the virus. If my presence has a real impact, then the non-boosted vaccinated members will have a real, not theoretical impact on

⁴ <https://www.cdc.gov/mmwr/volumes/71/wr/mm7133e1.htm>, accessed 31 Aug 2022.

⁵ Exhibit 65-46, page 30.

⁶ Exhibit 65-46, page 73.

⁷ <https://www.cdc.gov/mmwr/volumes/71/wr/mm7133e1.htm>, accessed 31 Aug 2022.

the mission as well. The DoD has not mandated the booster, punished or accused these “minimally protected” members of having a negative impact on good order and discipline, and unit morale as I have been.

13. The determination by my leadership that my religious beliefs are incompatible with service constitutes a religious test.⁸

14. In paragraph 13, Col Jones’ states that she “also considered the impact of an approved religious accommodation and subsequent assignments.” I previously addressed this “consideration” in my RAR appeal, noting that “DAFI 52-201 outlines the procedures if my approved accommodation needs to be modified or revoked.”⁹ Whatever foresight Col Jones may have into my future, any assignment that I may or may not have that could or could not accommodate my religious accommodation is theoretical.

15. With this statement, Col Jones is communicating that no matter what job I may have in the future, my religious beliefs are not compatible. What is not theoretical is my faith, and it will not change from assignment to assignment. Therefore, her belief that my sincerely held religious beliefs are incompatible with future assignments reveals her application of a religious test.¹⁰

16. In paragraph 14, Col Jones restates Lt Gen Webb’s comments about the “extreme measures” AETC took as well as his false statement that “only after the vaccine became available and administered did the pandemic numbers begin to

⁸ Exhibit 65-46, AU_CC 1st Ind, page 59 and Maj Schrader RAR Appeal 1-24 page 78 para c.

⁹ Exhibit 65-46, paragraph 12.(a).(9), page 70.

¹⁰ For another example, see Exhibit 65-46, AU_CC 1st Ind, page 59 and Maj Schrader RAR Appeal 1-24 page 78 para c. In this indorsement, Gen Hecker also established a religious test.

decrease.” I addressed these misleading and false statements in my appeal in paragraphs 12.a.(1), (2), and (3). Contrary to Lt Gen Webb’s uncited statement that it was not until the vaccine that the pandemic numbers started coming down, I cited statistics from the af.mil website showing just the opposite.¹¹

17. In paragraph 15, Col Jones cites Air Force standardization to explain the non-standardized and incomplete information being provided about options post-appeal-denial, which I asked about specifically in her office on 9 Nov 2021. DAFI-52-201 is clear about what the options are, and they include reassignment, reclassification, or voluntary separation. However, none of these three options are on the flow chart. Rather the only options on the flow chart are Letters of Correction, Admonishment or Reprimand, or Article 15 all leading to discharge.¹² If the goal was to “reassure” me of a standardized process that was fair and equitable, we could have talked about what the standardized options are in the DAFI. However, it is my opinion that the goal was coercion through the fear of punishment and discharge. These were very difficult days for our family; cloaking the process in latent threats of dishonorable discharge and a lack of transparency, in the name of “standardization,” did not help.¹³

18. Furthermore, the process has not been standard, fair, or equal across the Air Force. I was amongst the first 195 Airmen in the USAF to have the RAR and RAR appeal denied. The DoD met their 30-days suspense in my situation, but this has

¹¹ Exhibit 65-46, *Maj Schrader RAR Appeal 1-24*, page 68.

¹² Exhibit 65-46, *Maj Schrader RAR Appeal 25-58*, page 119.

¹³ Exhibit 65-46. *Maj Schrader RAR Appeal 1-24*, paragraph d, page 78.

not been the case across the Air Force. I have been on the fast track through the administrative punishment process ever since.

19. 4 Jan 2022 was the first date the DAF posted at af.mil the number of RARs at the MAJCOM/FLDCOM level and RAR appeals at the DAF level that were either pending, approved, or disapproved. On that date, a full 34 days after my appeal had been denied by Lt Gen Miller, there had only been 195 USAF members who had their appeal denied. I was one of the first 195.

18. In a further non-standardized, non-fair, and non-equitable process, the DAF approved exemption numbers, current as of 6 Dec 2022 – the same week my RAR appeal was denied – showed that to date the DAF had granted a total of 2,222 medical exemptions, 2,521 administrative exemptions and zero (0) religious accommodations.¹⁴ This is a total of 4,743 secular exemptions granted by the DAF when my RAR appeal was denied.

20. Moreover, the process has not been standard, fair, or equal within Air University, the parent organization of the Eaker Center, where Col Jones is Commander. As I noted in my declaration, I was sidelined and treated differently than my colleagues by my AFCCC supervisor long before the mandate was even in effect.¹⁵ After the mandate and my RAR appeal denial, Col Jones (confirmed in paragraph 23 of her declaration) directed the AFCCC Commandant on 15 Dec 2021 to “redistribute [my] teaching responsibilities to other faculty members.”¹⁶

¹⁴ <https://www.af.mil/News/Article-Display/Article/2888078/daf-covid-19-statistics-december-2021/>, accessed 31 Aug 2022.

¹⁵ Motion 57-10, paragraphs 12-15.

¹⁶ Exhibit 65-45, page 12.

21. Other military faculty members within Air University who also submitted an RAR have not been sidelined from their faculty responsibilities or issued punitive administrative action or a notice of discharge as I have been. These Air University military faculty members, as of 1 Sep 2022, have not been issued even a LOC and continue to teach at a full capacity. Some of them appear to have not a single impact on their career or their ability to contribute to the education of the force, while I have been completely sidelined and have had my career completely destroyed.

22. I received a LOC on 15 Dec 2021.¹⁷ Col Jones “forwarded an administrative discharge recommendation to AETC on April 27, 2022.”¹⁸ All Air University military faculty members had the same 17 Sep 2021 deadline to be fully vaccinated by 1 Nov 2021, or to submit a RAR, but there has been a significantly non-standardized process in terms of timeline and punitive administrative action both in the form of official job performance paperwork and non-official retaliation off the books such as reduction of training, opportunity and responsibility.

23. This is also true for students in Air University who were not removed from the learning environment due to their vaccination status or RAR.

24. A replacement for me at the AFCCC was selected and scheduled to arrive in the summer of 2022. With the early departure of the AFCCC Deputy Commandant in the fall of 2021 and two staff chaplains slated to PCS in the summer of 2022, we had three open Staff Chaplain positions at AFCCC, but four Staff Chaplains were named to replace the three openings. Due to a personal family issue, one of the four

¹⁷ Exhibit 65-45 paragraph 17, page 10.

¹⁸ Exhibit 65-45 paragraph 19, page 10.

was not able to PCS in. Thus, I ended up not being replaced, but it was not for lack of trying.¹⁹ Again, this has not been a standardized, fair, or equitable process. Col Jones states in her declaration in paragraph 27 that she did not receive notice of this replacement. I cannot refute her lack of notice on this issue, but it is well known within the AFCCC staff that we had four people coming in to replace three, and I believe the AFCCC is, with me on the books, already overmanned by one position to accommodate recent years' surge in incoming new Chaplains.

25. Col Jones also mentions in paragraph 15 "standardized written vaccination orders." Col Jones did not provide me standardized written orders in compliance with Secretary of Defense orders. I outline the non-standardized orders in my declaration in paragraph 41.²⁰

26. Concerning paragraph 17, between the 3 Dec 2021 order and the deadline to be vaccinated by 13 Dec 2021, Col Jones leaves out two additional questions I asked of her during this window. On 7 Dec 2021, I requested a temporary administrative exemption following AFI 48-110²¹ due to the likelihood that I would be a member of a certified class when a certified class was issued in one of the numerous court cases. Col Jones denied my request on 8 Dec 2021.

27. On 10 Dec 2021, I requested clarification on how the order was enforceable with no FDA-approved vaccine available to me, or if she was mandating that I submit to a EUA vaccine, and if she was ordering me to be tested weekly with a

¹⁹ Motion 57-10, paragraph 45.

²⁰ Motion 57-10, paragraph 41.

²¹ AFI 48-110, 7 Oct 2013. *Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases*, Appendix C.

EUA product. She replied the same day affirming that my questions about the interchangeability of EUA-labeled Pfizer-BioNTech vaccine vials and Comirnaty-labeled vaccine vials was a legal issue and referred me several memoranda, specifically, the 14 Sep 2021 memo from Acting Assistant Secretary of Defense for Human Affairs (ASD(HA)). The ASD(HA) memorandum was used by Col Jones and other Air Force leaders to assert that the FDA and EUA products were interchangeable and alter the orders from the Secretary of Defense and the Secretary of the Air Force.

28. In paragraph 23, Col Jones stated that she directed the AFCCC Commandant to redistribute my teaching responsibilities on 15 Dec 2021. However, as I stated in paragraph 14 of my declaration, I was removed from teaching roles in June and July 2021, a full six months before her direction.

29. In paragraph 15 of my declaration, I outline that the reason given to me for being kept out of the classroom or interacting with students in June, July, and Aug 2021 (pre-mandate) was that I had yet to attend the Academic Instructor Course (AIC). In July and Aug 2022 when a new Staff Chaplain arrived at AFCCC, he was put into the classroom as the alternate Course Director, teaching, leading seminar groups, and fully participating within weeks of his arrival and before attending AIC. The decision was made by either AFCCC leadership or Col Jones to delay his attendance in AIC for the express purpose of helping instruct and facilitate the Basic Chaplain Course 22D in Aug 2022. This is the opposite of how I was treated in the summer of 2021, a full six months before Col Jones indicates she directed my teaching load to be redistributed.

30. In paragraph 25, Col Jones' states that "the AETC Scorecard was briefed to AETC commanders as the process for how AETC reviews religious accommodation requests once the member submits the request to their immediate commander."²² I have included the entire PowerPoint slide below in paragraph 35.²³ It is clear that this is not a generic briefing slide given to AETC Commanders presenting "organization flow" as Col Jones indicates.

31. If it is as she says, then my personal information concerning my RAR was used without my permission as a training tool for AETC commanders, in a manner for which it was not meant. I mentioned in paragraph three above, I am concerned that my personal information was used beyond the scope in which it was intended and potentially against me and/or other Airmen.

32. I am not yet aware of how this PowerPoint slide was utilized by AETC. I suspect it was either 1) a tool prepared and briefed by the AETC Chaplain (as indicated in the slide's bottom right-hand corner), and presented to the AETC Commander to assist the AETC Commander and his staff in drafting the denial letter of my RAR; or 2) a tool presented to the AETC Commander to summarize my information in his preparation for the CORONA conference Executive Meeting, as referenced in paragraph 3 above and in paragraph 21 of my declaration.²⁴

34. In paragraph 25, Col Jones affirms that there are only two commanders in my Chain of Command and that she and the Air University Commander fill these


²² Exhibit 65-45, page 12.

²³ This PowerPoint slide was released to me on December 16, 2021 as a response to my November 15, 2021 FOIA request.


²⁴ Motion 56-10.

two positions as I stated in my declaration in paragraph 26. I have provided the entire PowerPoint below in paragraph 35 which shows that this is a Scorecard generated specifically for me. Therefore, I stand by my comments in paragraphs 26 a-c. Col Jones’ comments do not relate to what I have written or the actual use of this PowerPoint slide. There remain two unaccounted-for mystery commanders that had a voice in recommending disapproval of my RAR.

35.



RAR – Ch, Maj Schrader



Personnel Data

- Name: Ch, Maj Darrel Schrader
- Duty Title: Staff Chaplain
- Unit: Air Force Chaplain Corps College (AU)
- Base: Maxwell AFB, AL
- Component: AD
- Status: No PCS or Deployment pending; no limitations
- TAFMSD: Jul 2011
- DOR: Mar 2020
- Proj Grade: N/A

Accommodation Rationale/HC Inputs

- **Accommodation:** Ch, Maj Schrader believes that to receive the vaccine would be sin of presumption or defiance. Therefore, receiving the vaccine is disobedience to God.
- **HC Comments:** Ch, Maj Schrader has a sincerely held religious belief.
- **Chaplain Recommendations:**
Interviewer/HC: Approve Wg/HC: Disapprove AETC/HC: Disapprove

AETC RRT Rationale:

Additional compelling government interest factors exists:

- Due to AFSC specific duties of in person crisis counselings, death notifications, hospital visitations, interaction with AFCCC students/instructors, etc this increases the health and safety risk of himself and others.
- Teleworking and assignment change are not feasible for mission accomplishment
- Position of Leadership – negative effect on Good Order & Discipline
- Review required for PCS and deployment
- No dissenting views noted.

Scorecard

	Approve	Disapprove
■ Squadron/CC		✓
■ Group/CC		✓
■ Wing/CC		✓
■ Wing RRT		✓
■ NAF/CC		✓
■ AETC RRT		✓

Briefier: Col Donnette Boyd, AETC/HC

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36. The final sentence of paragraph 26 of Col Jones’ declaration says, “the COVID-19 vaccine is the single, most effective tool... scientifically proven to prevent severe illness in members infected with the virus,” yet she cites not one shred of “scientific” evidence, perhaps because the “science” has changed so much during Covid. She says it is her responsibility “to protect the health and safety of the member and the unit.” But her role as commander includes protecting the spiritual

health and safety of her members, not just the physical. The question of “most effective” is not the question being asked concerning religious accommodations. The question is, is it the least restrictive means to my individual sincerely held religious beliefs?

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 1, 2022

/s/ D. Lance Schrader
Darrel Lance Schrader

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

ISRAEL ALVARADO, et al.,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	
v.	:	Case No.: 1:22-CV-00876-AJT-JFA
	:	
LLOYD AUSTIN, III, et al.,	:	
	:	
<i>Defendants.</i>	:	
	:	

**SUPPLEMENTAL DECLARATION OF CHAPLAIN (MAJ)
JERRY B. YOUNG**

Pursuant to 28 U.S.C. §1746, I, JERRY B. YOUNG declare as follows:

1. My name is Jerry B. Young. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this supplemental declaration in response to the Department of Defense and Department of Army mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. I have experience the following additional adverse actions:
 - a. The inability to PCS with a pending RAR into a brigade position before my upcoming board for LTC is a career killer. Without this key development brigade position, I have no chance of promotion and therefore could be separated from active duty.

b. The DOD COVID-19 travel guidance updated on August 8, 2022 states that I am limited to “mission-critical” travel, but deems PCS as “mission-critical.” Regardless, our Chief of Chaplains policy is that no orders will be cut for chaplains with pending RARs. On September 1, 2022, my personnel manager said on that this is because it’s not fair for me to take up a slot with an RFO since I likely cannot PCS. So, I will not be allocated an RFO this winter for my July 2023 move, but my replacement already has orders to arrive December 2022 into my position. In other words, I will be intentionally double slotted for at least 8 months. This is clearly religious discrimination which will have an adverse impact on yet another evaluation.

c. Though I have experienced support from my direct supervisor and civilian colleagues, I have experienced scrutiny, bias, and hostility from my senior rater and senior chaplain brass. Since my first meeting on April 12, 2022, my senior rater, CH (COL) Hardin, has been very direct regarding his position and desire to move me early. He asked, “Where do you want to go next?” though my move date was 15 months away and reassigning me is not his responsibility. He said, “You do not belong here.” In regard to my RAR, he stated, “ You are the one who has to explain why you received all the other vaccines but not this one.” He has said the current EUA mandated vaccines only come from two stem cells from a very long time ago so it is not a big deal.

d. CH (COL) Hardin has threatened through my supervisor to pull me from the instructional platform on numerous occasions, as he did in June 2022 with another colleague with a pending RAR. He observes me frequently for long

durations with consternation while I am instructing on the platform, but he does provide not any feedback after his observations, nor does he observe my colleagues in the same manner.

e. My last evaluation was by far the lowest senior rater potential write up which I have received in nearly 15 years of active duty service. The senior rater narrative was a significant departure from the evaluation narrative which I received from my former senior rater, CH (COL) Hysom, just 5 months prior in the same position. With only six weeks' notice before my evaluation, CH (COL) Hardin informed me that he needed to see LTC level organizational impact in order to receive a "cookie," which is code for a good evaluation.

f. Simply because of my pending RAR and knowledge of this class-action case, my senior rater, Chaplain (COL) Hardin, recently said on August 29, 2022 that I am creating a hostile work environment for him. He says my perception is skewed, and essentially, that I am wrong to doubt his objective judgment because his Anglican endorser is currently championing the cause for religious freedom. Then, he said he provided my evaluation to the Commandant along with five other "highly qualified" evaluations [likely from the bottom of his pile who are retiring] of the 25 majors he senior rates to prove that he gave me an absolutely unbiased evaluation. He then asked me if he needed to hire an attorney to protect himself.

g. Many of my favorable actions, awards, and work production efforts are either paused or sidelined. For example, I completed the requirements for the Senior Army Instructor Badge in July, and yet, while other chaplain's instructor badges have been processed, mine has not. I was nominated for the "Four

Chaplains” award in June, along with three other chaplains, one of whom also has a pending RAR. All of these awards have sat in the Chief of Chaplains office. I have completed significant work to get five lesson plans approved through Army University and yet the final step is on hold with three of these lessons at my senior rater’s level.

4. I have met with my Commandant, CH (COL) James Palmer, on multiple occasions in regards to COVAX. According to his own policy, he is required to assess my risk level before approving any leave. He is aware of my religious objection to receiving an EUA COVID therapy shot which utilizes aborted baby cells. In fact, I provided CH (COL) Palmer a list of the top drugs utilizing fetal cells, including Novavax, back on November 1, 2021. And yet, even after receiving my mandatory counseling from my Company Commander regarding Novavax, my Commandant required a personal meeting on August 15, 2022. His messaging to me was that Novavax could be a blessed opportunity to move from “red” on immunization to “green” and enjoy the accompanying privileges. Just like CH (MG) Solhjem’s Novavax twitter message on August 31, 2022, CH Palmer presented Novavax as a wonderful gift free of fetal cell use. When I showed him evidence again to the contrary, he referred me to the health clinic for more information. It appears the DOD has not built an offramp to the religious intolerance shown toward those with RARs against abortion.

5. All of these additional adverse actions above are a significant burden for my family of six. My wife is currently pregnant with our fifth child. If we were

separated from the military due to this EUA mandate which violates my conscience, we would have no coverage for the birth of our child.

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 2, 2022

/s/ Jerry B. Young
JERRY B. YOUNG