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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

UNITED KP FREEDOM ALLIANCE, an
unincorporated association; LE-LAN JORGENSEN,
an individual; LAURA YVANOVICH, an
individual; ROBIN DRUMMOND, an individual,
TRACEY FORD, an individual; NATALIE OGLE,
an individual; and NATHAN LEAVITT, an
individual;

Plaintiffs,

v.

KAISER PERMANENTE (Kaiser Foundation
Hospitals, Kaiser Foundation Health Plan, Inc., the
Permanente Medical Group, Inc.) and DOES I-X;

Defendants.

Case No.

COMPLAINT

(Jury Trial Demanded)

INTRODUCTION

1. On August 2, 2021, Kaiser Permanente announced that it would mandate that all of its over 200,000 employees nationwide be vaccinated for the SARS-CoV-2 virus (“COVID”).
2. Plaintiffs are Kaiser Permanente doctors, nurses, and support staff. This is their challenge to that mandate.
3. Plaintiffs assert that a mandatory vaccine cannot be supported when:
 - a. Over 99.8% of all those who are infected and ill with COVID survive.

- 1 b. Those who survive obtain robust and durable natural immunity.
- 2 c. The natural immunity so obtained is superior to COVID vaccine-induced
- 3 immunity.
- 4 d. The COVID vaccines are ineffective against the Delta strain of COVID, which the
- 5 Center for Disease Control (“CDC”) states is the dominant (>99%) strain
- 6 throughout the United States.
- 7 e. The CDC Director acknowledged that the COVID vaccines do not prevent infection
- 8 or transmission of COVID: “[W]hat the vaccines can’t do anymore is prevent
- 9 transmission.”¹
- 10 f. The CDC acknowledged that the vaccinated and unvaccinated are equally likely to
- 11 spread the virus.²
- 12 g. The vaccines only reduce symptoms of those who are infected by COVID, but not
- 13 transmission of the virus. They are, therefore, treatments, and not vaccines as that
- 14 term has always been defined in the law.
- 15 h. The CDC changed its definition of “vaccine” in August 2021. The CDC formerly
- 16 described vaccination as “the act of introducing a vaccine into the body to produce
- 17 immunity to a specific disease.” The definition has since been changed and now
- 18 reads: “the act of introducing a vaccine into the body to produce protection to a
- 19 specific disease.”
- 20 i. This is a critical factual and legal distinction. Legal authority to mandate medical
- 21 treatment only derives under public health regulations. As the CDC holds that Delta
- 22 is the only strain; that the shots do not stop the transmission of Delta; and that
- 23 vaccination is mere “protection” against a disease and not “immunity” against the
- 24 disease; claiming this is a public health mandate is fallacious.
- 25

26 ¹ As the Wuhan vaccine cannot stop transmission of Delta, several studies have proven that the vaccinated are

27 passing the Delta strain amongst each other. For example, as reported by the NEJM, University of San Diego

28 healthcare workers. The New England Journal of Medicine, *Resurgence of SARS-CoV-2 Infection in a Highly*

29 *Vaccinated Health System Workforce* (September 30, 2021).

<https://www.nejm.org/doi/full/10.1056/NEJMc2112981>.

² https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w

1 j. The COVID vaccines cause a significantly higher incidence of injuries, adverse
2 reactions, and deaths than any prior vaccines that have been allowed to remain on
3 the market, and, therefore, pose a significant health risk to recipients, who are, by
4 definition, healthy when they receive the COVID vaccines.

5 k. Since, according to the CDC, the COVID vaccines do not prevent the infection or
6 transmission of COVID, while at the same time, also according to the CDC, they
7 result in a significant number of adverse events and deaths, there is no legal basis
8 for mandating them, and Kaiser's mandate must therefore be struck down.

9 **PARTIES**

10 4. Plaintiff Le-Lan Jorgensen is an employee of Kaiser Permanente who resides in
11 Contra Costa County, California. She is a nurse anesthetist and has been an employee for eighteen
12 years. She applied for an exemption to Kaiser's vaccine mandate due to her sincerely held religious
13 beliefs, which was provisionally granted, and she is now compelled to be tested for COVID-19
14 weekly. She is not a member of a union.

15 5. Plaintiff Laura Yvanovich is an employee of Kaiser Permanente who resides in
16 Alameda County, California. She has worked for Kaiser Permanente for thirty-three years. She
17 holds sincere religious beliefs that her body is a temple of God, and that submitting to
18 vaccination or to testing violates her obligation to keep her body holy. She applied for an
19 exemption to Kaiser's mandate to get vaccinated or tested; her exemption request was granted
20 with regard to the vaccination but denied with regard to testing. She was terminated for failing to
21 provide proof of vaccination or to submit to biweekly testing for COVID-19. She has not, to her
22 knowledge, been infected with SARS-CoV-2. She is not a member of a union.

23 6. Plaintiff Robin Drummond is an employee of Kaiser Permanente who resides in
24 Ventura County, California. She has been an employee for approximately twenty-two years and
25 has worked 100% remotely for approximately fifteen years. She holds a sincere personal belief
26 that medical decisions are to be made by her and her alone as a personal healthcare decision. She
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1 also sincerely believes that her natural immunity acquired through her infection and recovery from
2 COVID-19 protect her. She applied for an exemption to Kaiser's vaccine mandate based upon her
3 natural immunity, which was denied, and she has been placed on unpaid administrative leave
4 because she did not provide proof of vaccination. A PCR test and an antibody test has confirmed
5 that she has previously had and recovered from COVID-19. She is not a member of a union.

6 7. Plaintiff Tracey Ford is an employee of Kaiser Permanente who resides in Riverside
7 County, California. She has been an employee for approximately five years. She works 100%
8 remotely. She applied for an exemption to Kaiser's vaccine mandate based upon her sincerely held
9 religious beliefs, which was provisionally granted, and she is now compelled to provide biweekly
10 tests for SARS-CoV-2. She is not a member of a union.

11 12 8. Plaintiff Natalie Ogle is an employee of Kaiser Permanente who resides in Spokane
13 County, Washington. She has worked for Kaiser Permanente for approximately five years. She
14 works 100% remotely. She sincerely holds the religious belief that conscience should govern her
15 actions, and anything else is an affront to human dignity as she understands the Catechism of the
16 Catholic Church, and that cooperating with the use of aborted fetal cells in the creation and testing
17 of the vaccines would be a grave moral evil. She applied for an exemption to Kaiser's vaccine
18 mandate based upon these sincerely held religious beliefs, which was denied, and she has been
19 placed on unpaid administrative leave because she did not provide proof of vaccination. She is not
20 a member of a union.

21 22 9. Plaintiff Nathan Leavitt is an employee of Kaiser Permanente who resides in
23 Washington County, Oregon. He has worked for Kaiser Permanente for more than fifteen years.
24 He works 100% remotely. He holds sincere religious beliefs that the use of aborted fetuses in
25 vaccines violates God's plan for human life; that human life is a gift that must be protected; and
26 that God granted free will to human beings and any affront to free will violates that gift from God.
27 He has applied for an exemption to Kaiser's vaccine mandate, which was denied, and he has been
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1 placed on unpaid administrative leave because he did not provide proof of vaccination. He has not,
2 to his knowledge, been infected with SARS-CoV-2. He is not a member of a union. Collectively,
3 Plaintiffs Jorgensen, Yvanovich, Drummond, Ford, Ogle, and Leavitt are referred to as the
4 “Individual Plaintiffs”. Plaintiff United KP Freedom Alliance is an unincorporated association.
5 The Individual Plaintiffs are members, as are over 4,000 Kaiser employees across all states where
6 Kaiser operates. The members of United KP Freedom Alliance (the “Association”) include
7 doctors, nurses, and support staff. They include Kaiser employees who work 100% remotely and
8 Kaiser employees that work in hospitals. They include Kaiser employees who have had COVID,
9 and those who have never had COVID. Members of the Association all refuse to take the vaccine
10 for various reasons, including religious objections to taking the vaccine, and have been
11 constructively terminated by Kaiser at this time through suspension without pay. Each of the
12 Association’s members would otherwise have standing to sue in their own right; the interests the
13 Association seeks to protect are germane to the Association's purpose; and neither the claims
14 asserted, nor the relief requested, requires the participation of individual members of the
15 Association in the lawsuit.

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18 1. Defendant Kaiser Permanente (sometimes “Kaiser”) is headquartered in Oakland,
19 California. It comprises Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals and its
20 subsidiaries, and the Permanente Medical Groups.³

21 22 **JURISDICTION AND VENUE**

23 2. This Court has jurisdiction to hear this case under 28 U.S.C. § 1331, which
24 confers original jurisdiction on federal district courts to hear suits arising under the laws and
25 Constitution of the United States, as well as under 42 U.S.C. § 1983 in relation to Defendants’
26 intent to deprive Plaintiffs of certain rights, privileges, and immunities as detailed herein.

27 3. This Court has jurisdiction over the claims asserting violations of the laws and

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³ <https://about.kaiserpermanente.org/who-we-are/fast-facts>

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