

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**JOSHUA A. MAZER, individually and on  
behalf of his minor child**

c/o SIRI & GLIMSTAD LLP  
200 Park Avenue, 17th Floor  
New York, New York 10166

Plaintiff,

-against-

**THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH**

899 North Capitol Street, NE  
Washington, DC 20002

AND

**LAQUANDRA S. NESBITT, in her official  
capacity as Director of the District of Columbia  
Department of Health**

899 North Capitol Street, NE  
Washington, DC 20002

AND

**MURIEL BOWSER, in her official capacity as  
Mayor of the District of Columbia**

John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Defendants.

CASE NO. \_\_\_\_\_

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

Plaintiff, JOSHUA A. MAZER (“**Plaintiff**”) for his complaint, against THE DISTRICT OF COLUMBIA DEPARTMENT OF HEATH, LAQUANDRA S. NESBITT, and MURIEL BOWSWER, by and through his attorneys, alleges as follows:

## INTRODUCTION

1. On March 16, 2021, the “Minor Consent for Vaccinations Amendment Act of 2020” (“**2020 DC Law**”)<sup>1</sup> that had been passed in 2020 by the D.C. Council, codified at subsection 600.9 of title 22-B § 600 of the Code of D.C. Municipal Regulations, became effective in the District of Columbia. This law permits a child, 11 years of age or older, to receive vaccinations without their parent’s consent or knowledge.

2. The 2020 DC Law, in fact, creates an entire structure by which the health care provider, insurance company, school, and health department all engage in an elaborate and deceitful scheme, including lying to the parents, to hide from those parents the fact that their child was vaccinated without parental notification, control, or consent, and all without any finding that a parent is unfit.

3. A child does not have to be a resident of the District of Columbia in order to take advantage of the 2020 DC Law. Any child only has to seek a vaccination from a medical provider located in the District of Columbia.

4. The 2020 DC Law runs contrary to, and is preempted by, long-established federal requirements for obtaining informed consent for childhood vaccinations established by Congress more than thirty-five years ago in the National Childhood Vaccine Injury Act of 1986 (the “**1986 Federal Act**”) (42 U.S.C. §§ 300aa-1 through 300aa-34) which creates a detailed federal statutory scheme for childhood vaccines, including granting pharmaceutical companies immunity for injuries caused by childhood vaccines and counterbalancing that by adding safety related requirements for administering childhood vaccines.

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<sup>1</sup> <https://code.dccouncil.us/dc/council/laws/23-193.html>.

5. Among the safety requirements mandated by Congress in the 1986 Federal Act is the prerequisite that a health care provider who intends to administer a childhood vaccine must provide to the parent<sup>2</sup> a vaccine information statement (“**VIS**”) prepared by the United States Department of Health and Human Services (“**HHS**”) prior to administering the vaccine. The VIS provides the parent with critical information regarding the vaccine, including information about the importance of the vaccine, information regarding the risks inherent in the vaccine, and advice to parents on when a child should not receive the vaccine. It also advises the parent to inform the doctor if the child has any of the listed risk conditions. It further informs the parent of the limited methods for seeking redress in the event the child is injured by the vaccine (i.e., through the Vaccine Injury Compensation Program).

6. The passage and implementation of the 2020 D.C. Law violates the 1986 Federal Act because it improperly calls for the alteration of the VIS documents themselves and completely does away with the requirement that the VIS be given to the child’s parents. The D.C. Council is not permitted to override the will of Congress; therefore the 2020 D.C. Law cannot be implemented.

7. Plaintiff Joshua A. Mazer is the parent and legal guardian of a minor child, who will be referred to herein as Jane Doe or J.D.,<sup>3</sup> who just turned 16 years old.

8. Plaintiff and J.D. reside in the State of Maryland.

9. Despite J.D. being a resident of another State, she was able to travel to the District of Columbia without her parents and request that she be administered a vaccination, without her parents’ knowledge or consent, pursuant to the provisions of the 2020 D.C. Law.

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<sup>2</sup> Hereinafter, “parent” shall mean biological parent, legal parent, or guardian.

<sup>3</sup> The initials “J.D.” stand for Jane Doe and are used for the purposes of the anonymity of Plaintiff’s minor child.

### **JURISDICTION AND VENUE**

10. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343(a). This Court is authorized to issue the non-monetary relief sought herein pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

11. Venue is proper in this judicial district under 28 U.S.C. § 1391(e) because Defendants reside in this judicial district and a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

### **PARTIES**

12. Plaintiff Joshua A. Mazer is an individual and is the parent and guardian of the minor child discussed herein, Jane Doe.

13. Defendant Muriel Bowser is the Mayor of the District of Columbia, and in her capacity as Mayor, Muriel Bowser is responsible for “the proper execution of all laws relating to the District.” D.C. Code § 1-204.22. Defendant Muriel Bowser does see that the laws of the District of Columbia are executed, including the 2020 DC Law.

14. Defendant Laquandra S. Nesbitt, M.D., M.P.H., is the Director of the District of Columbia Department of Health and is responsible for enforcement of all laws and regulations relating to public health and vital statistics. D.C. Code § 7-101. Defendant Laquandra S. Nesbitt does see that the laws of the District of Columbia are executed, including the 2020 DC Law.

15. The District of Columbia Department of Public Health is a department within the Executive Branch of the Government of the District of Columbia and is responsible for the planning, development, and implementation of the delivery of health care services for the District of Columbia. D.C. Code § 7-151, including, without limitation, implementation and enforcement of the 2020 DC Law.

## FACTS

### **A. The National Childhood Vaccine Injury Act of 1986 and its Requirement to Provide a “Vaccine Information Statement” as the Basis for Informed Consent**

16. In 1986, to address the problem of the high costs of liability for pharmaceutical companies for vaccine injuries, Congress passed H.R. 5546, the National Childhood Vaccine Injury Act.

17. Unlike nearly every other company selling a consumer product, pharmaceutical companies are not liable for injuries caused by their vaccines. The 1986 Federal Act (42 U.S.C. §§ 300aa-1 through 300aa-34) grants pharmaceutical companies immunity from financial liability for injuries caused by their vaccine products and instead places the responsibility for vaccine safety in the hands of the Secretary of Health and Human Services (the “**Secretary**”). Recognizing that by providing such immunity it eliminated an important incentive for pharmaceutical companies to assure the safety of their vaccine products, Congress created various safeguards regarding the use of vaccines. Among these safeguards is the requirement that every parent of a minor child receive a VIS prior to the minor child being vaccinated to ensure the parent receives critical information regarding this medical procedure, including information to help determine whether their child should not receive the vaccine.

18. In 1986, there were just two vaccines the Centers for Disease Control and Prevention (“**CDC**”) recommended injecting into children, DTP and MMR, and due to crippling financial liability from injuries caused by these vaccines, only one manufacturer remained for each vaccine. As explained by the United States Supreme Court, “by the mid-1980’s ... the remaining manufacturer [of DTP] estimated that its potential tort liability exceeded its annual sales by a factor of 200.” *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 227 (2011). Hence, as explained by the Institute of Medicine, by 1986 the “litigation costs associated with claims of damage from vaccines had

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