Declarant:

First and Last Name (Not in all CAPS)

Street Address (Not in all CAPS, no abbreviations)

City, State (Not in all CAPS, no abbreviations, city and state spelled out) [ZIP]/TDC

Respondents:

PRESIDING JUDGE ETHAN P. SCHULMAN AND ALL PARTICIPATING JUDGES OF

SUPERIOR COURT OF COUNTY OF SAN FRANCISCO OF STATE OF CALIFORNIA

400 McAllister Street – Dept 302

San Francisco, CA 94102

**DECLARATION OF TRUTH AND FACT**

**IN THE FORM OF AN AFFIDAVIT**

**For Ex Parte at Common Law Seeking Emergency Injunctive Relief and Lawful Remedy**

**October 11, 2021**

I, First Name Last Name, Declarant, being competent to testify, of sound mind and age of maturity and of my own free will, being duly sworn according to Law to tell the truth of the facts related herein regarding the matters now before the Court to which I have firsthand knowledge, declare under penalty of perjury the following is true and correct to the best of my knowledge.

1. I declare and notice the Court that I am one of the People of the united States of America, being made free by my Creator living in one of the several States.
2. I declare and notice the Court that I am a Natural Man, coming in Pro Per (“in one’s own proper person”) and in Sui Juris (“of his own Right”), and therefore am not and cannot be mistaken for any ARTIFICIAL PERSON (as defined by **Black’s Law Dictionary**, Fourth Edition: *“Persons created and devised by human laws for the purposes of society and government as distinguished from natural persons. Corporations are examples of artificial persons.”* See 1 Bl.Comm 123; **Chapman v. Brewer**, 43 Neb. 890, 62 NW 320; **47 Am.St.Rep.** 779; **18 Am J2d Corp**, Sec 20) and, consequently, am exempt from any and all identifications, treatments, and requirements as any ARTIFICIAL PERSON pursuant to any process, code, or statue or any color thereof. See **Cruden v. Neale**, 2 NC 338, 339 (1796) and **Rodrigues v. Ray Donavan, U.S. Department of Labor**, 769 F.2d 1344, 1348 (1985).
3. I declare and notice the Court that in these united States of America, the authority of any and all governments resides in the People, the Natural Men and Women of the land, for government is a fiction of the mind and can only be created by the People, affected by the People, overseen by the People for the benefit of only the People. See: **Waring v. the Mayor of Savannah**, 60 Georgia, p.93 (1878).
4. I declare and notice the Court that at all times I reserve, retain and claim all, and waive none, of my Creator-given inherent, unlimited, unalienable, secured, protected and guaranteed Rights pursuant to the Declaration of Independence and the Constitution for the united States of America as ratified 1791 with the Articles of the Amendments and the California State Constitution.
5. I declare and notice the Court that as a matter of their Lawful compliance to the referenced Constitution, any of the People, while functioning in any public capacity, in return of the trust of the other People, are granted limited delegated authority of and by the People, with specific duties delineated in accordance; therefore, shall only do so pursuant to a Lawfully designated, sworn and subscribed Oath of Office and with any and all bonds and other requirements thereof, to ensure their faithful performance to the People.
6. I declare and notice the Court that pursuant to this supreme Law of the Land and the Creator-given Rights secured and guaranteed therein, said Constitution is established to ensure that the dominion granted by the Creator to all People, on this land, shall endure, and ensure forever that this People on this land be free from any and all slavery, being indentured, tyranny, and oppression under color of law, statute, code, policy, procedure, or of any other type.

1. I declare and further notice the Court that pursuant to said Constitution, I cannot be compelled, manipulated, extorted, tricked, threatened, placed under duress, or coerced, or so affected by any Natural Man or Woman, who individually, or in any capacity as or under any ARTIFICIAL PERSON, agency, entity, officer, or party, into the waiving of any of my Rights, or to act in contradiction thereof, or to act in opposite of moral conscience and dominion granted to me by my Creator; nor can I be deprived of any of these Rights, privileges, and immunities, except by Lawful process in accordance with said Constitution, without that Natural and/or Artificial Person, in whatever capacity, in so doing, causing injury or harm to me and thereby committing numerous crimes, required Lawful punishment there from.
2. **I declare and notice the Court that I have suffered irreparable harms and face imminent injury perpetrated by CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO and CITY AGENTS following her directives if the Court does not intervene and provide Emergency Injunctive Relief and Lawful Remedy**. Violations/crimes include but are not limited to the following:

**Hostile Work Environment:**

Acting as agents for ISEN, Chief of Fire Department Jeanine Nicholson and her deputies have created a hostile work environment including harassment, religious discrimination, disrespect of privacy, and threats of demotion, loss of pay and termination of employment, etc. which seems to be a deliberate and persistent campaign of duress and coercion in an attempt to force me to give up/relinquish certain of my unalienable Rights and bend to the will of the Fire Department and ISEN and CITY AGENTS regarding “COVID-19” “directives,” “orders,” “mandates” and “policies” (such as “guidelines” for “physical distancing,” masking, testing, tracking, “status forms” or “vaccinations”). For example:

* Constant barrage of emails at work, enforcing compliance with policy for “vaccine” status reporting and “vaccination” requirements. (See Exhibit 8, incorporated by this reference as if fully restated herein).
* Being told that I am going to be put on a list distributed department wide reporting my name and my “non vaccinated" status.
* Visits in the firehouse by Chiefs and/or Union directors threatening termination if I do not get the “vaccine.”
* Being told by the Fire Department, on a regular basis and during a one-on-one meeting with CD2 at Fire Department Headquarters, that I will be separated from the CITY AND COUNTY OF SAN FRANCISCO if I do not “vaccinate” by October 13, 2021.

This hostile work environment has directly resulted in my suffering fear of not being able to provide food and shelter for myself and my family due to loss of income. As a successful firefighter for over 20 years, the now constant fear of being unlawfully “fired” has caused me physical, mental, and emotional pain.

# **Violations of My Right to Freedom of Choice, Expression, and Religion/Beliefs, etc.:**

# “*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the Right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”*

# - **Constitution for the united States of America, First Amendment**

“*The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State…” -* **California Constitution (1849), Article I, Sec. 4**

*“The people shall have the right freely to assemble together, to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.”*

- **California Constitution (1849), Article I, Sec. 10**

# Acting as agents for CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO, Chief of Fire Department Jeanine Nicholson and her deputies have violated my freedom of choice of religion and free exercise of religious beliefs. Chief of Department Jeanine Nicholson has discriminated against me and other firefighters by visiting the fire station and saying, “your requests for religious exemptions will probably be denied, especially if you are Catholic.”

**Violations of My Right to Personal/Private Property and Privacy:**

 “*The Right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated…”* **- Constitution for the united States of America, Fourth Amendment and California Constitution (1849), Article I, Section 19**

Acting as agents for ISEN, Chief of Fire Department Jeanine Nicholson and her deputies have attempted to unlawfully seize my private property against my will and publicly disclose my personal information without my consent. Deputy Chief Bryan Rubenstein has threatened disciplinary action against me for not disclosing my “vaccination” status. Deputy Chief Bryan Rubenstein attempted to force me to take a “vaccine” with unknown and potentially harmful ingredients by calling me to a special meeting at the Fire Department Headquarters where he threatened me with job loss unless I took the “opportunity” to be “vaccinated.” Deputy Chief of Administration Velo has publicly disclosed my personal medical information by removing my name from a published list of firefighters volunteering for wildland firefighting duty and telling firefighters that unvaccinated firefighters are not eligible for such duty. The San Francisco Firefighters local 798 (union) has dispatched some of its board members to multiple firehouses who have spread rumors that I had been “vaccinated” and that members should reconsider joining me on THIS complaint since I had taken the shot: Which is false. Whether true or false, it is violation of my Right to privacy to release any personal medical information about me without my consent.

Additionally, I have received many threatening and coercive email communications in this regard (See Exhibit 8, incorporated by this reference as if fully restated herein), for example:

* All Members [DHR Alert] Vaccine Status Reporting (Email sent Mon, July 12, 2021, 15:45) Attachment:Vaccination and Face Covering Policy FAQs for Employees 7.12.2021[13] (1) (1).pdf

*“Unvaccinated employees must continue to wear a mask indoors in the workplace.”*

*“Employees who have not submitted proof of vaccination are considered unvaccinated.”*

* Public Health Order Update. Attachments:SFFD Health and Safety FAQ 8-3-2021.pdf and C19-07-Safer-Return-Together-Health Order.pdf

*“Well-fitted masks shall ALWAYS (outdoors and indoors) be worn by:*

* + *Unvaccinated Members*
	+ *Members that have not reported vaccination Status in People and Pay Employee Portal”*

**Unlawful Deprivation of My Life, Liberty and Property:**

“*No person shall…be compelled…to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”* **- Constitution for the united States of America and California Constitution (1849), Article I, Section 8**

Acting as agents for ISEN, Chief of Fire Department Jeanine Nicholson and her deputies have harassed me and other firefighters by visiting the fire station and saying “those who do not get vaccinated will be fired.” Chief of Department Jeanine Nicholson has threatened me and other firefighters by sending deputies to the fire station where they have singled out the unvaccinated firefighters and told them “If you do not get vaccinated you will be fired” and “If you get an exemption, you will be changing tires at the MUNI yard for the rest of your career.” Deputy Chief of Administration, Velo has admitted to threatening us with termination and used profanity in text messages to me.

Additionally, I have received many threatening and coercive email communications in this regard (See Exhibit 8, incorporated by this reference as if fully restated herein), for example:

* New Vaccine and Face covering Policy for City Employees (Email sent Wed, June 23, 2021, 17:18 *“All employees must provide the name of vaccine, date(s) of vaccination, and upload documentation into the system.”*
	+ Attachment: DHR Face Covering Policy 6.23.21.pdf

*“An employee who fails to comply with these face covering requirements will receive one direct notice of the requirement and will be given an immediate opportunity to comply with the requirement. If the employee does not immediately comply, the employee will be sent home on vacation or accrued leave, other than sick leave. If the employee does not comply with the requirement a second time, the City will proceed with discipline up to and including separation from employment. There is no tolerance for employees who will not adhere to these reasonable and necessary safety requirements.*

* + Attachment: DHR Vaccination Policy 6.23.21.pdf

*“Failure to comply with this policy may result in discipline up to and including termination of employment.”*

* General Order 21 A-51, CCSF DHR Revised Face Covering Policy and Vaccination Policy (Email sent Mon, June 28, 2021, 16:59.) Attachments:
	+ COVID-19 Vaccination Policy Issued June 23, 2021, Effective June 28, 2021. *“Failure to comply with this policy may result in discipline up to and including termination of employment.”*
	+ Face Covering Requirements at Work COVID-19 Prevention, Revised June 23, 2021.
1. I declare and notice the Court that **I** **provided proper notice** (see Exhibits for mailing receipts confirming proper service) and **reasonable opportunity** to CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO, and to any and all CITY AGENTS following her directives (since notice to principal is notice to agent, and notice to agent is notice to principal), **who had** **a duty to timely respond to this matter in affidavit form** and **provide proof of Lawful authority** (in proper compliance with governing law pursuant to the California State Constitution and the Constitution for the united States of America) to enforce any health “policy,” “directive,” “order” or “mandate” upon me (such as “guidelines” for “physical distancing,” masking, testing, tracking, “status forms” or “vaccinations”); **but instead, ISEN and CITY AGENTS chose to remain silent, and their lack of response resulted in default and Estoppel by Acquiescence and tacit agreement including that ISEN and CITY AGENTS do NOT have any proof of claim regarding their offer or any Lawful authority in this matter, which is now established as settled fact**  (See Exhibit 1-4, incorporated by this reference as if fully restated herein):
	* CONDITIONAL ACCEPTANCE - July 16, 2021, Registered mail tracking number: RE495417798US, No response from ISEN.
	* COURTESY NOTICE - July 26, 2021, USPS Return receipt for registered mail tracking number: 9590 9402 5815 0034 8727 48, No response from ISEN.
	* DEFAULT NOTICE AND ESTOPPEL NOTICE - July 29, 2021, Registered mail tracking number: RF268245347US, No response from ISEN.
	* *“A* ***default*** *is an omission of that which ought to be done, and more specifically, the omission or failure to perform a legal duty. The term also embraces the idea of dishonesty, or an act or omission discreditable to one's profession,”* **Black’s Law Dictionary**, Fourth Edition, and *“Silence can only be equated with fraud when there is a legal and moral duty to speak or when an injury left unanswered would be intentionally misleading,”* **U.S. v. Prudden**, 424 F.2d 1021 (1970); **U.S. v. Tweel**, 550 F.2d 297, 299 (1977), and further, “*One’s ‘silence’ may invoke doctrine of ESTOPPEL by acquiescence,”* ***Carmine v. Bowen***, 64 A. 932 (1906)
	* **“Tacit”** is defined by **Ballentine’s Law Dictionary**, Third Edition: “*Silent; not expressed; implied;”* and by **Bouvier**’**s Law Dictionary**, 14 Edition, Vol II: “*That which although not expressed, is understood from the nature of the thing or from the provision of the law; implied;”*and by **Black**’**s Law Dictionary**, Fourth Edition: “*Existing, inferred, or understood without being openly expressed or stated, implied by silence or silent acquiescence, understood, implied as tacit agreement, a tacit understanding.”*See, **State v. Chadwick*,***150 Or. 645, 47 P.2d 232, 234 (1935).
2. I declare and notice the Court that **due process requirements have been fully satisfied** in this matter; consequently, no notice of hearing or summons will be served upon CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO or upon any CITY AGENTS following her directives for my Ex Parte at Common Law, whereas:
* According to **Black**’**s Law Dictionary**, Fourth Edition: DUE PROCESS OF LAW. *"Law of the land," "due course of law," and "due process of law" are synonymous*. **People v. Skinner**, Cal., 110 P.2d 41, 45; **State v. Rossi,** 71 R.I. 284, 43 A.2d 323, 326; **Direct Plumbing Supply Co. v. City of Dayton**, 138 Ohio St. 540, 38 N.E.2d 70, 72, 137 A.L.R. 1058; **Stoner v. Higginson**, 316 Pa. 481, 175 A. 527, 531. *But "judicial process" and "judicial proceedings" are not necessarily synonymous with "due process."* **Pennsylvania Publications v. Pennsylvania Public Utility Commission**, 152 Pa. Super. 279, 32 A.2d 40, 49; **Barry v. Hall,** 98 F.2d 222, 68 App. D.C. 350. ***The essential elements of "due process of law" are notice and opportunity*** *to be heard and to defend**in orderly proceeding adapted to nature of case, and the guarantee or due process requires that every man have protection …and benefit of general law.* **Dimke v. Finke,** 209 Minn. 29, 295 N.W. 75, 79; **Di Maio v. Reid**, 13 N.J.L. 17, 37 A.2d 829, 830.
	+ According to **Black**’**s Law Dictionary**, Fourth Edition: EX PARTE. *On one side only; by or for one party; done for, in behalf of, or on the application of, one party only. 661 EX PARTE A judicial proceeding, order, injunction, etc., is said to be ex parte when it is taken or granted at the instance and for the benefit of one party only, and without notice to, or contestation by, any person adversely interested.* **Janin v. Logan***, 209 Ky. 811, 273 S.W. 531, 532;* **Van Alen v. Superior Court in and for Los Angeles County*,*** *37 Cal.App. 696, 174 P. 672;* **Stella v. Mosele***, 299 53, 19 N.E.2d 433, 435.* ***Ex parte means that an application is made by one party to a proceeding in the absence of the other. Thus, an ex parte injunction is one granted without the opposite party having had notice of the application. It would not be called "ex parte" if he had proper notice of it, and chose not to appear to oppose it.***
1. I declare and notice the Court that **I am seeking Emergency Injunctive Relief or any other Lawful Remedy available at Common Law** and **NOT** within the statutory or policy jurisdiction, that the Court:
	* Safeguard my natural, unalienable, Constitutionally protected and secured Rights.
	* Order CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO and any and all CITY AGENTS involved in this matter to **cease and desist** all communications, actions and enforcement concerning unlawful “COVID-19” “policies,” “directives,” “orders” and “mandates” (such as guidelines for “physical distancing,” masking, testing, tracking, “status forms” or “vaccinations,” etc.).
	* Order CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO and any and all CITY AGENTS involved in this matter to **cease and desist** any harassment, retaliation, reduction of duties (removed from wildland hired list), limitation of career path (inability to take lieutenant’s test without proof of “vaccination”) or any and all other disciplinary action against me including threats of suspension, leave, or termination of employment for not complying with unlawful “COVID-19” “policies” “directives,” “orders” and “mandates” (such as guidelines for “physical distancing,” masking, testing, tracking, “status forms” or “vaccinations,” etc.).
	* Order CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO and any and all CITY AGENTS involved in this matter to **be held personally liable** for any fees and fines for damages pursuant to my fee schedule **($XX,XXX** US Dollars per day per man or woman involved, plus any interest and penalties, which will continue to accrue until this matter is **settled in full**), as a result of activating and accepting the terms and obligations of said fee schedule on September 24, 2021 due to continued unlawful activity and actions against me in including above-mentioned violations of my natural, unalienable, Constitutionally protected and secured Rights. (See Exhibit 5-7, incorporated by this reference as if fully restated herein).
	* Provide any other Lawful remedy available
2. I declare and notice the Court that I stand on my Complaint and all Exhibits attached thereto.
3. I declare and notice the Court that I will testify under penalty of perjury that all herein be true and correct to the best of my knowledge.

In conclusion, *“I believe in the united States of America as a government of the People, by the People, for the People; whose just powers are derived from the consent of the governed; a democracy in a Republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of Freedom, Equality, Justice, and Humanity for which American patriots sacrificed their lives and fortunes. I, therefore, believe it is my duty to my country to love it; to support its Constitution; to obey its laws; to respect its flag; and to defend it against all enemies.”* - “The American’s Creed” Authorized Version - **A Beginner’s History** by William H. Mace. 1921.

Executed on this 11th day of October in the year of two thousand twenty one.

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First Name Last Name

In Pro Per; In Sui Juris

All Rights reserved; None waived; Without prejudice

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Witness signature #1 Witness signature #2