

FILED
Superior Court of California
County of San Francisco

OCT 06 2021

CLERK OF THE COURT

BY: Bowman Liu
Deputy Clerk
BOWMAN LIU

1 Eigil Qwist
2 1546 San Anselmo Ave
3 San Anselmo, California [94960]/TDC

4 In Sui Juris

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6
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**
9

10 Ex Parte Eigil Qwist

11 Complainant,
12 and those similarly situated hereto

Case No: **CGC -21 -595192**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

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20 **EX PARTE Eigil Qwist v. CAROL ISEN (IN HER PERSONAL/PRIVATE CAPACITY)**
21 **DIRECTOR OF HUMAN RESOURCES for CITY AND COUNTY OF SAN FRANCISCO**
22 **JOHN AND JANE DOE 1 – 5000 (IN HIS/HER PERSONAL/PRIVATE CAPACITY)**

23 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

24 **Yick Wo v. Hopkins** 118 US 356 (1886): *“Sovereignty itself is, of course, not subject to law, for*
25 *it is the author and source of law; but in our system, while sovereign powers are delegated to the*
26 *agencies of government, sovereignty remains with the people, by whom and for whom all*
27 *government exists and acts. And the law is the definition and limitation of power. For the very idea*
28 *that one man may be compelled to hold his life, or the means of living, or any material right*

1 *essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country*
2 *where freedom prevails, as being the essence of slavery itself.”*

3
4 **Hale v. Henkel** 201 US 43 at 74-75 (1906): *“The individual may stand upon his Constitutional*
5 *[secured] Rights as a Citizen. He is entitled to carry his own private business in his own way. His*
6 *power to contract is unlimited... His Rights are such as existed by the Law of the Land long*
7 *antecedent to the organization of the state, and can only be taken from him by Due Process of Law,*
8 *and in accordance with the Constitution... He owes nothing to the Public, so long as he does not*
9 *trespass upon their Rights...”*

10
11 **Cruden v. Neale**, 2 NC 338, pp 338- 339 (1796): *“That tile majority shall prevail, is a rule*
12 *posterior to the formation of government, and results from it. It is not a rule binding upon mankind*
13 *in their natural state. There, every man is independent of all laws, except those prescribed by*
14 *nature. He is not bound by any institutions (339) formed by his fellow-men without his consent.”*

15
16 **County of Butler v. Governor Wolf**, Case 2:20-cv-00677-WSS: *“However, good intentions*
17 *toward a laudable end are not alone enough to uphold governmental action against a*
18 *constitutional challenge. Indeed, the greatest threats to our system of constitutional liberties may*
19 *arise when the ends are laudable, and the intent is good-especially in a time of emergency. In an*
20 *emergency, even a vigilant public may let down its guard over its constitutional liberties only to*
21 *find that liberties, once relinquished, are hard to recoup and that restrictions-while expedient in*
22 *the face of an emergency situation-may persist long after immediate danger has passed. Thus, in*
23 *reviewing emergency measures, the job of courts is made more difficult by the delicate balancing*
24 *that they must undertake. The Court is guided in this balancing by principles of established*
25 *constitutional jurisprudence. This action seeks a declaration that Defendants' actions violated and*
26 *continue to violate the First Amendment [and Fourth and Fifth Amendments... The Court closes*
27 *this Opinion as it began, by recognizing that Defendants' actions at issue here were undertaken*
28 *with the good intention of addressing a public health emergency. **But, even in an emergency, the***

1 *authority of government is not unfettered. The liberties protected by the Constitution are not*
2 *fair-weather freedoms—in place when times are good but able to be cast aside in times of trouble.*
3 *There is no question that this Country has faced, and will face, emergencies of every sort. But the*
4 *solution to a national crisis can never be permitted to supersede the commitment of individual*
5 *liberty that stands as a foundation of the American experiment. The Constitution cannot accept*
6 *the concept of a ‘new normal’ where the basic liberties of the People can be subordinated to*
7 *open-ended emergency mitigation measures. Rather, the Constitution sets certain lines that may*
8 *not be crossed, even in an emergency. Actions taken by Defendants crossed those lines. It is the*
9 *duty of the Court to declare those actions unconstitutional. Thus, consistent with the reasons*
10 *set forth above, the Court will enter a judgment in favor of the Plaintiffs.”*
11

12 **In re Midwest Institute of Health v. Michigan**, Docket No. 161492: Argued on request to answer
13 certified questions September 9, 2020. Decided October 2, 2020. “. . . concluded that the Governor
14 lacked the authority to declare a “state of emergency” or a “state of disaster” under the EMA
15 after April 30, 2020, on the basis of the COVID-19 pandemic and that the EPGA violated the
16 Michigan Constitution because it delegated to the executive branch the legislative powers of state
17 government and allowed the executive branch to exercise those powers indefinitely. **First**, under
18 the EMA, the Governor only possessed the authority or obligation to declare a state of emergency
19 or state of disaster once and then had to terminate that declaration when the Legislature did not
20 authorize an extension; the Governor possessed no authority to redeclare the same state of
21 emergency or state of disaster and thereby avoid the Legislature’s limitation on her authority.
22 **Second**, regarding the statutory language of the EPGA, plaintiffs’ argument that an emergency
23 must be short-lived and the Legislature’s argument that the EPGA was only intended to address
24 local emergencies were textually unconvincing. And while the EPGA only allows the Governor to
25 declare a state of emergency when public safety is imperiled, public-health emergencies such as
26 the COVID-19 pandemic can be said to imperil public safety. **Third**, as the scope of the powers
27 conferred upon the Governor by the Legislature becomes increasingly broad, in regard to both
28 the subject matter and their duration, the standards imposed upon the Governor’s discretion by

1 *the Legislature must correspondingly become more detailed and precise. MCL 10.31(1) of the*
2 *EPGA delegated broad powers to the Governor to enter orders “to protect life and property or to*
3 *bring the emergency situation within the affected area under control, and under MCL 10.31(2),*
4 *the Governor could exercise those powers until a “declaration by the governor that the emergency*
5 *no longer exists.” Thus, the Governor’s emergency powers were of indefinite duration, and the*
6 *only standards governing the Governor’s exercise of emergency powers were the words*
7 *“reasonable” and ‘necessary,’ neither of which supplied genuine guidance to the Governor as to*
8 *how to exercise the delegated authority nor constrained the Governor’s actions in any meaningful*
9 *manner. Accordingly, the EPGA constituted an unlawful delegation of legislative power to the*
10 *executive and was unconstitutional under Const 1963, art 3, § 2, which prohibits exercise of the*
11 *legislative power by the executive branch. Finally, **the unlawful delegation of power** was not*
12 *severable from the EPGA as a whole because the EPGA is inoperative when the power to “protect*
13 *life and property” is severed from the remainder of the EPGA. Accordingly, the EPGA was*
14 ***unconstitutional in its entirety.***”

15
16 **Owen v. Independence**, 100 S. Ct. 1398 (1980): *“Officers of the court have no immunity, when*
17 *violating a constitutional right, from liability, for they are deemed to know the law.”*

18
19 **Byars v. U.S.**, 273 U.S. 28 (1927): *“Rights must be interpreted in favor of the citizen. No unlawful*
20 *search and seizure.”*

21
22 **Boyd v. U.S.**, 116 U.S. 616 (1886): *“The court is to protect against any encroachment of*
23 *constitutionally secured liberty.”*

24
25 **Miranda v. Arizona**, 384 U.S. 436, 491 (1966): *“Where rights secured by the constitution are*
26 *involved, there can be no rule making or legislation which would abrogate [abolish] them.”*

1 **Norton v. Shelby County**, 118 U.S. 425, 442 (1886): *“An unconstitutional act is not law; it*
2 *confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal*
3 *contemplation, as [an] inoperative as though it had never been passed.”*

4
5 **U.S. v. Bishop**, 412 U.S. 346 (1973): *“If you have relied on the Constitution and prior decisions*
6 *of the Supreme Court, then you have a perfect defense for willfulness. If they can't prove willfulness*
7 *they can't prove anything.”*

8
9 **Ex Parte Milligan**, 71 U.S. 2 (1866): *“The Constitution of the United States is a law for rulers*
10 *and people equally in war and in peace, and covers with the shield of its protection all classes of*
11 *men, at all times, and under all circumstances. No doctrine, involving more pernicious*
12 *consequences, was ever invented by the wit of man than that any of its provisions can be*
13 *suspended during any of the great exigencies of government.”*

14
15 **Ex Parte Milligan**, 71 U.S. 2, pp. 82 ¶2 (1866): *“...No human being in this country can exercise*
16 *any kind of Public authority which is not conferred by law; and under the United States it must*
17 *be given by the express words of a written Statute. Whatever is not so given is withheld, and the*
18 *exercise of it is positively prohibited.”*

19
20 **Ex Parte Milligan**, 71 U.S. 2, pp. 62-63 (1866): *“...A judge would be no judge if everybody else*
21 *were a judge as well as he. Therefore, in every society, however rude or however perfect its*
22 *organization, the judicial authority is always committed to the hands of particular persons, who*
23 *are trusted to use it wisely and well; and their authority is exclusive; they cannot share it with*
24 *others to whom it has not been committed. Where, then, is the judicial power in this country? Who*
25 *are the depositaries of it here? The Federal Constitution answers that question in very plain*
26 *words, by declaring that 'the judicial power of the United States shall be vested in one Supreme*
27 *Court, and in such inferior courts as Congress may from time to time ordain and establish.*
28 *Congress has, from time to time, ordained and established certain inferior courts; and, in them,*

1 together with the one Supreme Court to which they are subordinate, is vested all the judicial power,
2 properly so called, which the United States can lawfully exercise. **At the time the General**
3 **Government was created, the States and the people bestowed upon that government a certain**
4 **portion of the judicial power which otherwise would have remained in their own hands, but they**
5 **gave it on a solemn trust, and coupled the grant of it with this express condition, that it should**
6 **never be used in any way but one; that is, by means of ordained and established courts. Any person,**
7 **therefore, who undertakes to exercise judicial power in any other way, not only violates the law of**
8 **the land, but he tramples upon the most important part of that Constitution which holds these**
9 **States together.”**

10
11 Ex Parte Milligan, 71 U.S. 2, pp. 66 (1866): “...Hamilton expressed, in the Federalist, the
12 universal sentiment of his time, when he said, that the arbitrary power of conviction and
13 punishment for pretended offences, had been the great engine of despotism in all ages and all
14 countries. **The existence of such a power is incompatible with freedom.”**

15
16 Ex Parte Milligan, 71 U.S. 2, pp. 73 (1866): “I prove my right to a trial by jury just as I would
17 prove my title to an estate, if I held in my hand a solemn deed conveying it to me, coupled with
18 undeniable evidence of long and undisturbed possession under and according to the deed. There
19 is the charter by which we claim to hold it. It is called the Constitution of the United States. It is
20 signed with the sacred name of George Washington, and with thirty-nine other names, only less
21 illustrious than his. They represented every independent State then upon this continent, and each
22 State afterwards ratified their work by a separate convention of its own people. **Every State that**
23 **subsequently came in acknowledged that this was the great standard by which their rights were**
24 **to be measured. Every man that has ever held office in the country, from that time to this, has**
25 **taken an oath that he would support and sustain it through good report and through evil. The**
26 **Attorney General himself became a party to the instrument when he laid his hand upon the holy**
27 **gospels, and swore that he would give to me and every other citizen the full benefit of all it**
28 **contains.”**

1 Ex Parte Milligan, 71 U.S. 2, pp. 125 (1866): “*Not one of these safeguards [Constitutional*
2 *guarantees] can the President, or Congress, or the Judiciary disturb, except the one concerning*
3 *the writ of habeas corpus.*”

4
5 Ex Parte Milligan, 71 U.S. 2, pp. 136-137 (1866): “*We agree in the proposition that no*
6 *department of the government of the United States-neither President, nor Congress, nor the*
7 *Courts-possesses any power not given by the Constitution.*”

8
9 Home Building & Loan Assoc. v. Blaisdell, 290 U.S. 398 (1934): “*Emergency does not create*
10 *power. Emergency does not increase granted power or remove or diminish restrictions imposed*
11 *upon power granted or reserved. The Constitution was adopted in a period of grave emergency.*
12 *Its grants of power to the Federal Government and its limitations of the power of the States were*
13 *determined in the light of emergency and they are not altered by emergency.*” And: “*...No human*
14 *being in this country can exercise any kind of Public authority which is not conferred by law...*”

15
16 Robin v. Hardaway Jeff., 109, 1772 WL 11 Va.Gen. 1772. April 1772: “*Now, all acts of*
17 *legislature apparently contrary to natural right and justice, are, in our laws, and must be in the*
18 *nature of things, considered as void. The laws of nature are the laws of God; whose authority can*
19 *be superseded by no power on earth. A legislature must not obstruct our obedience to him from*
20 *whose punishments they cannot protect us. All human constitutions which contradict his laws, we*
21 *are in conscience bound to disobey.*”

22
23 Black’s Law Dictionary, Fourth Edition, Definition of EX PARTE: *On one side only; by or for*
24 *one party; done for, in behalf of, or on the application of, one party only. A judicial proceeding,*
25 *order, injunction, etc., is said to be ex parte when it is taken or granted at the instance and for the*
26 *benefit of one party only, and without notice to, or contestation by, any person adversely interested.*

27 Janin v. Logan, 209 Ky. 811, 273 S.W. 531, 532; Van Alen v. Superior Court in and for Los
28 Angeles County, 37 Cal.App. 696, 174 P. 672; Stella v. Mosele, 299 53, 19 N.E.2d 433, 435. Ex

1 *parte means that an application is made by one party to a proceeding in the absence of the other.*
2 *Thus, an ex parte injunction is one granted without the opposite party having had notice of the*
3 *application. It would not be called "ex parte" if he had proper notice of it, and chose not to*
4 *appear to oppose it.*

5
6 **Black's Law Dictionary**, Fourth Edition, Definition of DUE PROCESS OF LAW: "*Law of the*
7 *land," "due course of law," and "due process of law" are synonymous. People v. Skinner, Cal.,*
8 *110 P.2d 41, 45; State v. Rossi, 71 R.I. 284, 43 A.2d 323, 326; Direct Plumbing Supply Co. v.*
9 *City of Dayton, 138 Ohio St. 540, 38 N.E.2d 70, 72, 137 A.L.R. 1058; Stoner v. Higginson, 316*
10 *Pa. 481, 175 A. 527, 531. But "judicial process" and "judicial proceedings" are not necessarily*
11 *synonymous with "due process." Pennsylvania Publications v. Pennsylvania Public Utility*
12 *Commission, 152 Pa.Super. 279, 32 A.2d 40, 49; Barry v. Hall, 98 F.2d 222, 68 App.D.C. 350.*
13 *The essential elements of "due process of law" are notice and opportunity to be heard and to*
14 *defend in orderly proceeding adapted to nature of case, and the guarantee or due process requires*
15 *that every man have protection ...and benefit of general law. Dimke v. Finke, 209 Minn. 29, 295*
16 *N.W. 75, 79; Di Maio v. Reid, 13 N.J.L. 17, 37 A.2d 829, 830.*

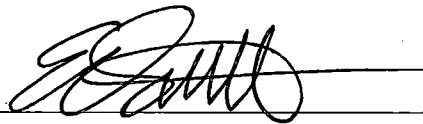
17
18 **Black's Law Dictionary**, Fourth Edition, Definition of DURESS: "*Unlawful constraint exercised*
19 *upon a man whereby he is forced to do some act that he otherwise would not have done... where*
20 *the person is deprived of his liberty in order to force him to compliance... threats of bodily or*
21 *other harm, or other means amounting to or tending to coerce the will of another, and actually*
22 *inducing him to do an act contrary to his free will. Heider v. Unicume, 142 Or. 410, 20 P.2d*
23 *384, 385; Shlensky v. Shlensky, 369 Ill. 179, 15 N.E.2d 694, 698.*

24
25 **Black's Law Dictionary**, Fourth Edition, Definition of COERCION: "*Compulsion; constraint;*
26 *compelling by force or arms. Fluharty v. Fluharty, Del. Super., 8 W.W.Harr. 487, 193 A. 838,*
27 *840; Santer v. Santer, 115 Pa.Super. 7, 174 A. 651, 652. It may be actual, direct, or positive, as*
28 *where physical force is used to compel act against one's will, or implied, legal or constructive, as*

1 *where one party is constrained by subjugation to other to do what his free will would refuse.*
2 Metro-Goldwyn-Mayer Distributing Corporation v. Cocke, Tex.Civ.App., 56 S.W.2d 489. *It*
3 *may be actual or threatened exercise of power possessed, or supposedly possessed. In re New*
4 York Title & Mortgage Co., 271 N.Y.S. 433, 150 Misc. 827; Weir v. McGrath, D.C.Ohio, 52
5 F.2d 201, 203.

6
7 All Rights reserved; none waived, and without prejudice.

8
9 Respectfully Submitted,

10
11 

12 10.6.2021

13 Eigil Qwist, In Sui Juris

14 Date

Declarant:
Eigil Qwist
1546 San Anselmo Avenue
San Anselmo, California [94960]/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 6, 2021**

I, Eigil Qwist, 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 Donovan, 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.
7. 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.
8. **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.

9. 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, page 1252: “Silent; not expressed; implied;” and by Bouvier’s Law Dictionary, 14 Edition, Vol II, page 576: “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).*

10. 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.*

11. 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.).

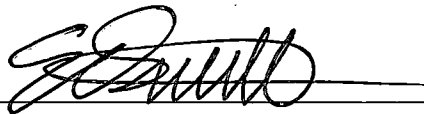
- Order CAROL ISEN, DIRECTOR OF HUMAN RESOURCES for the CITY AND COUNTY OF SAN FRANCISCO and any and all CITY AGENTS involved in this matter to **be held personally liable** for any fees and fines for damages pursuant to my fee schedule (\$10,000 US Dollars per day per man or woman involved, plus any 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

12. I declare and notice the Court that I stand on my Complaint and all Exhibits attached thereto.

13. 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” - **A Beginner’s History** by William H. Mace.

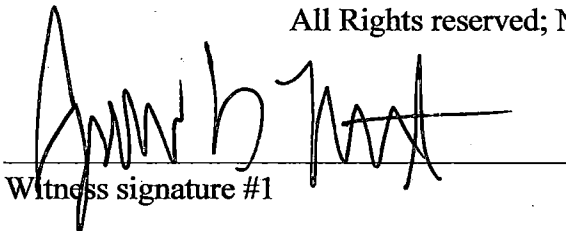
Executed on this 6th day of October, in the year of two thousand twenty one.



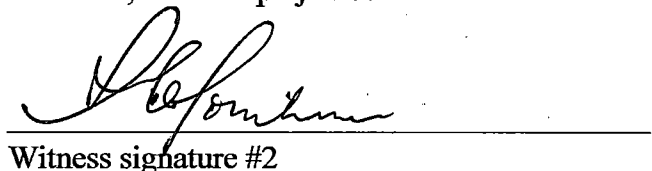
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In Pro Per; In Sui Juris

All Rights reserved; None waived; Without prejudice



Witness signature #1



Witness signature #2