

<b>STATE OF MICHIGAN</b> JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS</b>	<b>CASE NO.</b>  22-000091-MZ Brock A Swartzle
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Court address 925 W. Ottawa St.  
P.O. Box 30185  
Lansing, MI 48909

Court telephone no.  
(517) 373-0807

Plaintiff's name(s), address(es), and telephone no(s).  
ROSS BARRANCO & KATHLEEN SHIER

Defendant's name(s), address(es), and telephone no(s).  
UNIVERSITY OF MICHIGAN BOARD OF REGENTS,  
A State Funded University

v

Plaintiff's attorney, bar no., address, and telephone no.  
David Peters (P48648)  
Pacific Justice Institute  
P.O. Box 51787  
Livonia, Michigan 48151-1787  
dpeters@pji.org  
(734)732-4050/(916) 857-6900

**Instructions:** Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

**Domestic Relations Case**

- There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

**Civil Case**

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in  this court,  \_\_\_\_\_ Court, where

it was given case number \_\_\_\_\_ and assigned to Judge \_\_\_\_\_

The action  remains  is no longer pending.

Summons section completed by court clerk.

**SUMMONS**



**NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date <b>June 23, 2022</b>	Expiration date* <b>September 22, 2022</b>	Court clerk <i>Jerome W. Zimmer Jr.</i>
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\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

RECEIVED by MCCOC 6/23/2022 12:51:01 PM

**PROOF OF SERVICE**

**SUMMONS**  
Case No. 22-000091-MZ

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult, and I am not a party or an officer of a corporate party (MCR 2.103[A]), and that: (notarization required)
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- I served personally a copy of the summons and complaint,
- I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with \_\_\_\_\_  
List all documents served with the summons and complaint

\_\_\_\_\_ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time
UNIVERSITY OF MICHIGAN BOARD OF REGENTS	2300 Ruthven Building 1109 Geddes Ave Ann Arbor, MI 48109-1079	

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	<b>TOTAL FEE</b>
\$		\$	\$

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_  
Attachments

\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time

\_\_\_\_\_ on behalf of \_\_\_\_\_  
Signature

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STATE OF MICHIGAN  
IN THE COURT OF CLAIMS

ROSS BARRANCO & KATHLEEN SHIER

Plaintiffs

vs.

UNIVERSITY OF MICHIGAN BOARD OF REGENTS,

A State Funded University

Defendants Jointly and Severally.

Dave Peters (P48648)  
Attorney for Plaintiffs  
Pacific Justice Institute  
PO Box 51787  
Livonia, Michigan 48151-1787  
Email: [dpeters@pji.org](mailto:dpeters@pji.org)  
Phone: (734) 732-4050/ (916) 857-6900

Case No. 22-000091-MZ  
HON. Brock A. Swartzle

**COMPLAINT FOR DECLARATORY  
AND EQUITABLE RELIEF**

RECEIVED by MCCOC 6/23/2022 12:51:01 PM

**COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF**

Plaintiffs ROSS BARRANCO and KATHLEEN SHIER complain against Defendants for equitable and declaratory relief and state as follows:

**JURISDICTION AND VENUE**

1. This is an action for declaratory and equitable relief pursuant to MCR 2.605 against the UNIVERSITY OF MICHIGAN BOARD OF REGENTS arising out of a denial of medical services and refusal to consider a religious exemption to the COVID-19 Vaccination.
2. The UNIVERSITY OF MICHIGAN BOARD OF REGENTS is the governing body of the University of Michigan Health Systems (hereafter UMHS) and the University of Michigan Transplant Center (hereafter UMTC) and has been given certain protections common to governmental entities by Michigan law and Constitutional authority.
3. The Court of Claims has jurisdiction over declaratory and equitable relief actions against governmental entities in Michigan pursuant to MCLA 600.619 et seq.

**PARTIES**

4. Plaintiff ROSS BARRANCO is a resident of the State of Michigan and a kidney transplant candidate.
5. Plaintiff ROSS BARRANCO is a patient who was placed on the Kidney Transplant List who was removed from this list by the Defendants.

6. Plaintiff KATHLEEN SHIER is a resident of the State of Michigan and a heart transplant candidate with just 7% heart function who is being kept alive via an implanted Ventricular Assist device.
7. Plaintiff KATHLEEN SHIER is a patient placed on the Heart Transplant List who was removed from this list by the Defendants.
8. Defendant UNIVERSITY OF MICHIGAN BOARD OF REGENTS is the governing body for the University of Michigan, a State funded public university.
9. UNIVERSITY OF MICHIGAN HEALTH SYSTEMS is a division of the University of Michigan and is an academic and health care provider inclusive of U of M Medical School, Mott Children's Hospital, University Hospital, and Women's Hospital.
10. The UNIVERSITY OF MICHIGAN TRANSPLANT CENTER (UMTC) and UNIVERSITY OF MICHIGAN HEALTH SYSTEMS (UMHS) are divisions of the University of Michigan.
11. All entities are and were, the responsibility of the Defendant UNIVERSITY OF MICHIGAN BOARD OF REGENTS.

### **FACTS**

12. Plaintiffs each took extraordinary measures in order to prepare for transplantation and after months of waiting, they finally were able to get on the transplant list to potentially obtain a life-saving organ.
13. Plaintiff ROSS BARRANCO lost significant weight, took various medications to prepare him for transplantation and made it onto the waiting list for a kidney.
14. Plaintiff ROSS BARRANCO became eligible for a donated kidney in 2021 but due primarily to losing weight and carefully following the instructions of the medical team, his kidney

function improved and Plaintiff generously asked to be placed on the wait list rather than the active list so that another unknown person might get the available Kidney who needed it immediately.

15. Plaintiff KATHLEEN SHIER was notified by letter from the University of Michigan Health Systems dated June 29, 2021 that she had been granted placement on the Transplant Waiting List.
16. In the interim period while the Plaintiffs were waiting for the availability of a suitable organ, they were removed or threatened to be removed from the list when the Defendant, UNIVERSITY OF MICHIGAN BOARD OF REGENTS imposed a new requirement in December 2021.
17. The new requirement was that all transplant patients at UNIVERSITY OF MICHIGAN receive the COVID-19 vaccination before proceeding with their needed procedure.
18. Plaintiffs have significant and sincere religious and medical objections to taking the vaccine.
19. Plaintiffs made known their sincere religious and other objections to the Defendant in writing.
20. The Coronavirus pandemic of 2020–2022 has caused widespread suffering, death, supply chain interruptions and significant economic dislocation in the United States and the world.
21. On November 5, 2021, the federal government issued an Administrative Order through the Occupational Health and Safety Administration (OSHA).
22. The OSHA “emergency temporary standard (the Vaccination and Testing ETS), under sections 4, 6(c), and 8 of the Occupational Safety and Health Act of 1970 (29 USC 653, 655(c), 657), purported to protect unvaccinated employees of large employers (100 or more

employees) from the risk of contracting COVID–19 by strongly encouraging vaccination (86 FR 61402).<sup>1</sup>

23. On January 13, 2022, the Supreme Court of the United States blocked enforcement of the federal vaccine mandate for private covered employers (with 100 or more employers).<sup>2</sup>
24. Also on January 13, 2022, the Supreme Court of the United States narrowly permitted enforcement of the federal vaccine mandate for health care workers.<sup>3</sup>
25. The effect of the CMS order was to bar private hospitals from exercising independent medical judgement with respect to the COVID-19 Emergency Use Authorizations and to confer the authority and responsibility for exercising independent medical judgement on the State and specifically the federal government and their various overlapping agencies.
26. Responsibility for implementing this governmental policy in derogation of the Plaintiffs Religious Rights falls exclusively within the purview and responsibility of the Defendant, UNIVERSITY OF MICHIGAN BOARD OF REGENTS.
27. Before, during, and after the administrative order(s), the federal government engaged in a pattern and practice of strong arming, threatening, coercing, and forcing physicians and medical providers to comply with their arbitrary diktats for political reasons and not for medical or public health reasons.<sup>4</sup>
28. Before, during, and after the administrative order(s), the government engaged in a pattern and practice of strong arming, threatening, coercing, and forcing medical decision makers,

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<sup>1</sup> A full text of this Order can be found at: <https://public-inspection.federalregister.gov/2022-01532.pdf>

<sup>2</sup> The Supreme Court’s decision in National Federation of Independent Businesses vs. OSHA 595 U.S. \_\_\_ can be found at: [https://www.supremecourt.gov/opinions/21pdf/21a244\\_hgci.pdf](https://www.supremecourt.gov/opinions/21pdf/21a244_hgci.pdf)

<sup>3</sup> The Supreme Court’s decision in Biden vs. Missouri 595 U.S. \_\_\_ (2022) can be found at: <https://supreme.justia.com/cases/federal/us/595/21a240/>

<sup>4</sup> c.f. Blaylock, Russel, “COVID: What Is Truth?”, Surg Neurol Int. 2022; 13: 167. Published online 2022 Apr 22. at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9062939/>

physicians, and medical providers to comply with their arbitrary diktats which are far reaching in restricting economic activity and civil liberties but are largely unsupported by scientific research.

29. Among other activities, federal officials engaged with friendly State governments to threaten the State issued medical licenses of physicians and other medical providers for failure to comply with federal diktats, caused to be fired many thousands of health care workers for refusing to comply with federal diktats, silenced all medical professionals from speaking in public or in private about their own independent Judgment regarding the pandemic and the measures to combat the pandemic by threatening their medical licenses, corresponded with physicians and medical providers threatening and demanding implementation of measures not within the medical Judgment of the physicians, and without the acquiescence of their patients.<sup>5</sup>

30. While this pressure on physicians and other decision makers like the Defendant UNIVERSITY OF MICHIGAN BOARD OF REGENTS is unprecedented, unlawful, and violates thousands of years of medical and public health practice, in acquiescing to this pressure, and in pressuring and requiring the Plaintiffs Transplant Physicians into compliance with their policies, the Defendants have violated the due process and religious rights of the Plaintiffs, including the right exercise their religion, the right to practice their religion, the right to privacy, the right to bodily integrity, the right to life, and the right to decide what medical treatment they will receive.

31. Notwithstanding the unlawful governmental pressure exerted on physicians and medical providers, the Defendants and their employed and contracted physicians and medical

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<sup>5</sup> Id.



providers, have violated their duty of care to the patients by imposing arbitrary and capricious dictates and effectively giving patients a choice to die or to submit to government inspired diktats that are not for a legitimate medical purpose.

32. In response to this incredible and unprecedented pressure campaign exerted against medical providers, in a letter dated December 7, 2021, transplant patients on the waiting list at UMHS were advised that in order “to be active on the waitlist at our Center, and to undergo transplant surgery” the patient would have to complete the COVID-19 vaccination series.
33. In a letter dated February 1, 2022, UNIVERSITY OF MICHIGAN advised Plaintiffs that “a recent change in transplant center procedures” required all listed transplant patients to complete the vaccination series for COVID-19.
34. Both letters further informed Plaintiffs, who are and were eligible transplant recipients waiting for a life-saving procedure, that “you have 3 months to complete the COVID vaccination series or you will be removed from the transplant list.”
35. Plaintiffs are informed and believe and therein allege that this policy has not been updated since implementation on or about December 7 in response to OSHA, CDC, and other federal mandates and individual pressure and correspondences, including phone calls, emails, and letters to the various physicians, and the pressure campaign from the government and their agencies.
36. The lack of update in the UMHS Transplant Center policy demonstrates that such policy is a consequence of the aforementioned federal pressure campaign insofar as there have been a number of changes made by the CDC and federal health decision makers including increasing the requirement to be “fully vaccinated” from a one-shot series (Johnson and Johnson) or two shot series (Moderna and Pfizer), and then to a requirement for a 3<sup>rd</sup> shot

booster, and now a requirement for a 4<sup>th</sup> shot booster which is not reflected in the policy statement by UNIVERSITY OF MICHIGAN.

37. The current policy on the UNIVERSITY OF MICHIGAN transplant board<sup>6</sup> is totally unclear on whether patients are required to get 1 shot, 2 shots or 4 shots.
38. Due to the lack of specificity, there is no clear direction on even the number of shots being demanded which suggests an arbitrary and capricious purpose that is not medically indicated.
39. This lack of specificity, with no clear direction on even the number of shots being demanded, suggest the requirements are based on federal health care decision makers public health and political preferences rather than a medical purpose legitimately determined by the Plaintiff's physicians to be beneficial to the Plaintiff.
40. Upon information and belief, Plaintiffs allege that the UNIVERSITY OF MICHIGAN BOARD OF REGENTS policy was implemented under pressure from the federal government and is not based on transplant research, or any peer reviewed studies on the efficacy of the experimental COVID vaccine within the context of transplantation surgery.
41. Defendant has and had duties owed to the patients, including Plaintiffs, and to the medical provider employee/contractors, not to federal regulators.
42. Defendant, acting under color of the federal government's COVID vaccine mandate, imposed this mandate on the Plaintiffs without scientific or medical proof of its safety and efficacy in Transplant Patients.
43. Defendant imposed the federal government's COVID vaccine mandate on the Plaintiffs without scientific or medical proof on its transplant patients, including Plaintiffs, without using sound medical judgment, and on information and belief, without the support of the

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<sup>6</sup> The policy can be found on the Transplant Board website and was downloaded on 4-6-44 at: <https://med.umich.edu/pdf/transplant-ctr/Pt-ed-doc-COVID-vaccine-requirement.pdf>

Transplant Board, without support of the Transplant Physicians, and with no supporting scientific or medical research whatsoever on the potential long-term health effects of the COVID vaccine.

44. Defendant imposed the government's COVID vaccine mandate on the Plaintiffs without consideration of the individual medical needs of the Plaintiffs.
45. Defendant imposed the government's COVID vaccine mandate on the Plaintiff Transplant Patients without any supporting medical or scientific research on even the short-term safety and efficacy of the vaccine in such patients, and with no research whatsoever on the long-term safety and efficacy of the vaccine in such patients.
46. Defendant has violated their duty of care to the Plaintiffs by failing to require scientific evidence of the benefit of the COVID-19 vaccines before imposing a life killing, draconian mandate.
47. Defendant effectively gave the Plaintiffs a Hobson's Choice - die or submit to a vaccine without long-term data on safety or efficacy and with no research in the context of transplant cases.
48. December 7, 2021 is a date which keeps recurring in these vaccine objector cases because it was the date of the federal COVID Vaccination mandate and shares the same date as the Transplant Board Mandate.
49. Upon information and belief, this date is no coincidence but rather shows that the University of Michigan Health Systems (UMHS) policy was implemented by the UNIVERSITY OF MICHIGAN BOARD OF REGENTS under pressure from the federal government and is not based on the medical needs of the Plaintiffs.

50. Plaintiffs have sincerely held religious beliefs in opposition to the COVID-19 experimental vaccination.
51. Plaintiffs objected in a timely manner to the sudden change in requirements, expressing sincerely held religious belief and requesting a religious exemption to the requirement.
52. Plaintiffs are practicing Christians and members of the Catholic Church with strongly held beliefs about using products developed through the use of fetal tissue.
53. The COVID-19 vaccinations were all developed through the direct use of aborted fetal tissue.
54. All three of the currently available COVID-19 vaccines are produced by, derived from, manufactured with, tested on, developed with, or otherwise connected to aborted fetal cell lines.
55. The government and their agents repeatedly and directly misled the American public about the vaccine, including about the use of aborted fetal cells in the vaccine development.
56. The Michigan Department of Health deceptively now claims in its literature that “fetal cell lines were not used by Pfizer and Moderna to produce and manufacture the vaccine” but then in an obvious example of double-speak concedes fetal cells were used “prior to manufacturing” to confirm efficacy.”<sup>7</sup>
57. The North Dakota Department of Health, in its literature for those considering one of the three, currently available COVID-19 vaccines, notes the following: “[t]he non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine.”<sup>8</sup>

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<sup>7</sup> See Michigan Department of Health and Human Services COVID-19 Vaccines and Fetal Cells available at: [COVID-19 Vaccines and Fetal Cells 031921.pdf \(michigan.gov\)](#)

<sup>8</sup> See North Dakota Health, COVID-19 Vaccines & Fetal Cell Lines (December 1, 2021), available at [COVID-19 Vaccine Fetal Cell Handout.pdf](#) (last visited June 16, 2022)

58. The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine, which used PER.C6 fetal cell line, “is a retinal cell line that was isolated from a terminated fetus in 1985.”<sup>9</sup> <sup>10</sup>
59. Thus, individuals with sincerely held religious beliefs, for example, that God is the creator of life, or that life begins at conception, have the right to not receive the COVID-19 vaccinations.
60. In fact, individuals in the United States have the inherent and fundamental Constitutional Right given by God, not any government board, to seek or to refuse medical treatment or any part of a course of medical treatment.
61. Defendant did not provide any type of interactive process to determine if the exemption requests of Plaintiffs could be reasonably accommodated.
62. Defendant has not provided any medical justification for their decision to end the lives of Transplant patients who fail to comply with the dictates of Washington bureaucrats.
63. The only available research Plaintiff could find on Transplants and the COVID-19 vaccine shows that the vaccine is LESS effective for Transplant patients.<sup>11</sup>
64. There are no safety or efficacy studies of the COVID-19 Vaccine and transplant patients.
65. There are no long-term safety or efficacy studies on the COVID-19 Vaccine whatsoever whether in the context of transplantation or for general medical use.

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<sup>9</sup> See, Louisiana Department of Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), available at [Microsoft Word - You Have Questions COVID-19 Vaccine FAQ \(la.gov\)](#)

<sup>10</sup>The Louisiana Department of Health’s publications confirm that aborted fetal cells lines were used in the “proof of concept” phase of the development of their COVID-19 mRNA vaccines. The North Dakota Department of Health, in its handout literature on COVID-19 vaccines, notes: “[e]arly in the development of mRNA vaccine technology, fetal cells were used for ‘proof of concept’ (to demonstrate how a cell could take up mRNA and produce the SARS- CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein.”

<sup>11</sup> [Organ Transplant Recipients Remain Vulnerable to COVID-19 Even After Second Vaccine Dose \(hopkinsmedicine.org\)](#)

66. The available research suggests quite strongly that the COVID-19 Vaccine is LESS effective in transplant cases due to the lower production of SARS COV-2 Spike Protein antibodies following the immunosuppression therapy needed for receiving an organ.<sup>12 13</sup>
67. The COVID-19 Vaccine provides considerably less benefit to the predominate Omicron variant currently circulating.<sup>13</sup>
68. In early 2022, the Biden administration discontinued the use of monoclonal antibodies due to the fact that these engineered antibodies were ineffective against the current COVID variant circulating with the FDA saying; “The data shows the vaccines are highly unlikely to be effective against...Omicron.”).<sup>14</sup>
69. The COVID-19 vaccines introduce the Spike Protein pathogen into the body resulting in the production of THE SAME TYPE of synthetic Spike Protein antibodies that the administration has discontinued because it has determined they are ineffective against Omicron.
70. Mandating COVID-19 Vaccinations is not the standard of care for Transplant Patients.
71. According to UNOS Transplant Living website advises patients that hospitals determine whether organ transplant recipients must receive one of the COVID vaccines, as set forth below:<sup>15</sup>

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<sup>12</sup> Id.

<sup>13</sup> <https://www.washingtonpost.com/health/interactive/2022/vaccine-omicron-effectiveness/>

<sup>14</sup> <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-limits-use-certain-monoclonal-antibodies-treat-covid-19-due-omicron>

<sup>15</sup> <https://transplantliving.org/covid/> (last visited June 16, 2022)

*Is a COVID-19 vaccination required in order to receive an organ transplant? Each transplant hospital makes its own decisions about listing candidates according to the hospital best clinical judgments, including whether or not any specific vaccination is part of their eligibility criteria. If you have any questions about listing criteria at your transplant hospital, we encourage you to contact the hospital.*

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72. By removing Plaintiffs from the active Transplant Waiting List, Defendant made a life-or-death decision for Plaintiffs and removed an existing right.
73. By removing Plaintiffs from the active Transplant Waiting List, Defendant made a life-or-death decision for Plaintiffs without their consent and removed an existing right without providing any type of due process.
74. If Regency or their Transplant Board proxies are going to make a life and death decision, they should at least make such decisions based on the best available knowledge and without undue outside influence on their medical decisions.
75. Defendant is forcing Plaintiffs to choose between life-saving treatment and their Constitutional Rights including sincerely held religious beliefs, the right to life, the right to privacy, the right to seek and obtain medical treatment of their choosing, the right to deny medical treatments they do not wish to take, the right to bodily integrity, and other Constitutional Rights.
76. Defendant did not provide any type of interactive process to determine if the exemption requests of Plaintiffs could be reasonably accommodated.
77. The letter from the board rejecting the Plaintiffs request provides only anecdotal justifications for the requirement and is devoid of any research, much less any peer reviewed research on the issue of COVID-19 vaccination and transplantation **BECAUSE NO SUCH RESEARCH EXISTS SHOWING THE VACCINE IS NECESSARY OR BENEFICIAL FOR TRANSPLANT PATIENTS.**

78. Defendant must demonstrate that a medical treatment is safe, effective, and necessary for the benefit of a patient before imposing such requirements on a patient.
79. Plaintiffs are not responsible for disproving that the Defendant's protocol is unsafe and ineffective and not necessary for the benefit of the patient.
80. The UNIVERSITY OF MICHIGAN BOARD OF REGENTS has not provided medical justification for their decision to remove Plaintiffs from the transplant list.
81. Plaintiffs have found data suggesting that the COVID Vaccines are LESS effective for Transplant patients.<sup>16</sup>
82. There are no safety or efficacy studies of the COVID-19 Vaccines with transplant patients.
83. There are no long-term safety or efficacy studies on the COVID-19 Vaccines whatsoever whether in the context of transplantation or for general medical use.
84. The available research suggests that the COVID-19 Vaccine is LESS effective in transplant cases due to the lower production of SARS COV-2 Spike Protein antibodies following the immunosuppression therapy needed for receiving an organ.<sup>17</sup>
85. The COVID-19 Vaccine provides considerably less benefit to the predominate Omicron variant currently circulating.<sup>18</sup>
86. In early 2022, the Biden administration discontinued the use of monoclonal antibodies due to the fact that these engineered antibodies were ineffective against the current COVID variant

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<sup>16</sup> [Organ Transplant Recipients Remain Vulnerable to COVID-19 Even After Second Vaccine Dose \(hopkinsmedicine.org\)](https://www.hopkinsmedicine.org)

<sup>17</sup> Boyarsky BJ, Werbel WA, Avery RK, et al. Antibody Response to 2-Dose SARS-CoV-2 mRNA Vaccine Series in Solid Organ Transplant Recipients. *JAMA*. 2021;325(21):2204–2206. doi:10.1001/jama.2021.7489 located at: [Solid Organ Transplant Recipients | Surgery | JAMA | JAMA Network](https://www.jama.com)

<sup>18</sup> <https://www.washingtonpost.com/health/interactive/2022/vaccine-omicron-effectiveness/>



circulating with the FDA saying; “The data shows these treatments are highly unlikely to be effective against...Omicron.”<sup>19</sup>

87. The COVID-19 vaccines introduce the Spike Protein pathogen into the body resulting in the production of THE SAME TYPE of synthetic Spike Protein antibodies that the administration has discontinued because it has determined they are ineffective against Omicron.

88. Mandating COVID-19 Vaccinations is not the standard of care for Transplant Patients.

89. By removing Plaintiffs from the active Transplant Waiting List, UMHS and the Transplant Board made a life-or-death decision for Plaintiffs without their consent.

90. By removing Plaintiffs from the active Transplant Waiting List, UMHS and the Transplant Board made a life-or-death decision for Plaintiffs without their consent and removed an existing right without providing any type of due process.

91. Defendant is forcing Plaintiffs to choose between life saving treatment and their Constitutional Rights including sincerely held religious beliefs, the right to privacy, the right to seek and obtain medical treatment of their choosing, the right to deny medical treatments they do not wish to take, the right to bodily integrity, and other Constitutional Rights.

### **CLAIMS**

92. The decision of the Defendant mandating COVID-19 Vaccinations or suffer removal from the Transplant List, and certain death, is Arbitrary, Capricious, and not backed by peer

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<sup>19</sup> <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-limits-use-certain-mono-clonal-antibodies-treat-covid-19-due-omicron>

reviewed medical studies on the efficacy of the COVID-19 vaccination in transplant procedures.

93. The decision of the Defendant: Vaccination or suffer removal from the Transplant List, and certain death, is Arbitrary, Capricious and was made under coercion, threats, and other political pressure from federal and State governments.
94. The decision of the Defendant mandating COVID-19 Vaccinations or suffer removal from the Transplant List, and certain death, is Arbitrary, Capricious and was not made as a private decision between physician and patient but rather a federal decision between the government and the patient.
95. There is no consensus among hospitals and transplant centers that COVID-19 vaccines must be taken by transplant recipients with many transplant centers rejecting federal pressure and following current medical standards and practices.
96. An alternative to requiring an immune system altering experimental drug with no long-term safety or efficacy studies be given to transplant recipients, which is followed by many similarly situated transplant centers in order to protect staff members as well as the precious organ, is to simply test for COVID before beginning a transplant procedure.<sup>20</sup>
97. The requirement that Plaintiffs receive a COVID vaccine violates the American Society of Transplantation's Ethics Statement.
98. Any hospital removing/deactivating recipients or donors for not taking a COVID vaccine runs afoul of the "Ethics Statement" espoused by the American Society of Transplantation

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<sup>20</sup> "Transplant providers and centers serve as gatekeepers to transplant waiting lists." The Limits of Refusal: An Ethical Review of Solid Organ Transplantation and Vaccine Hesitancy, Olivia Kates et al, Am J Transplant 2021; 21:2637-2645 (12/23/20).

(AST) which expressly acknowledges the significance of the religious beliefs of candidates/recipients, as set forth below<sup>21</sup>:

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#### AUTONOMY

- All participants in solid organ transplantation (donors, recipients, providers, investigators) should be respected as autonomous individuals whose interests may not always coincide.
- Healthcare providers, recipients (or candidates) and living donors bring personal, philosophical, and religious beliefs that should be respected.
- All participants must be fully informed of the risks and benefits of all procedures.

99. In fact, “[t]he Department of Health and Human Services acknowledges that “it and the Organ Procurement and Transplant Network have not ‘set any specific guidance on vaccination status for organ recipients nor living organ donors.’”<sup>22</sup>

100. Despite there being no “official policy” with regard to organ donors and donees, federal authorities and governmental entities, largely under the direction and/or control of the State, federal, and local governments have, on information and belief, instituted policies in violation of the Plaintiff’s Constitutional and fundamental rights including the policy requiring organ transplant patients be vaccinated for COVID..

101. In particular the CDC, HHS, NIH and other potential defendants have exerted extraordinary pressure on physicians, boards, administrators, nurses, and other providers to comply with the vaccine guidelines imposed on December 7, 2021.

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<sup>21</sup> Ethics Statement - Revised and Approved by the AST Board of Directors on December 6, 2012.

<sup>22</sup> Id.

102. December 7, 2021 was the date of the OSHA imposed vaccine requirements that were overruled by the Supreme Court of the United States,<sup>23</sup> and the same day the UMHS transplant board imposed “their” requirements.
103. There is considerable additional pressure that was exerted on medical professionals as shall become known during the course of Discovery including memorandum, emails, letters, directives, public health statements, and other communications directed at medical professionals, the public, and others from the federal and State governments.
104. In sum, the federal government has not officially imposed a COVID mandate on organ transplant recipients, but bowing to behind-the-scenes federal pressure from the named government Directors and their agencies, and not for a legitimate medical purpose, UMHS has unlawfully, and without providing Due Process, imposed such a requirement.
105. The ethical and moral dilemma created by forcing organ recipients and donors to violate sincerely held religious beliefs to receive an organ violates the duty of respect owed to the medical patients and all participants in the transplantation process.
106. Because “[v]accine refusal differs by racial, ethnic, socioeconomic, or religious groups... and ... is, so far, uncommon, the difference in transplant outcomes between vaccinated and non-vaccinated recipients would have to be substantial to justify excluding vaccine-refusing patients on the basis of overall utility.”<sup>24</sup>
107. Despite their religious objections to the COVID vaccines and the novelty of the COVID vaccines and the unforeseeable impact on Plaintiff due to the lack of any peer reviewed literature on the subject, and the lack of any long-term safety and efficacy studies, UMHS

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<sup>23</sup> NFIB VS. OSHA 595 U.S. \_\_\_\_ (2022) full opinion located at: [https://www.supremecourt.gov/opinions/21pdf/21a244\\_hgci.pdf](https://www.supremecourt.gov/opinions/21pdf/21a244_hgci.pdf)

<sup>24</sup> The Limits of Refusal: An Ethical Review of Solid Organ Transplantation and Vaccine Hesitancy, Olivia Kates et al, Am J Transplant 2021; 21:2637, 2641.

failed to provide Plaintiffs with any data showing that the anticipated outcome for unvaccinated recipients is vastly inferior to vaccinated ones.

108. Such information was not provided because the allegation that the COVID Vaccine provides a substantial benefit to transplant patients is false.

109. Such information was also not provided because the allegation that the COVID Vaccine provides a substantial benefit to transplant patients is probably unknowable given the small effect of the more recent variants causing the COVID-19 infection and the small sample size of the transplant eligible community.

110. Notably, in *The Limits of Refusal*, chief among the reasons for not mandating COVID vaccines for organ recipients is their novelty<sup>25</sup>:

For new vaccines, such as those currently in development for SARS-CoV-2, a demonstrated track record of safety and efficacy must be established before these vaccines will be included in ACIP [Advisory Committee on Immunization Practices] recommendations. In addition, as with other new agents, safety and efficacy should be demonstrated for patients with end-stage organ dysfunction or organ transplants, and any theoretical risk for immunostimulation must be considered prior to updating vaccine requirements specific to transplant candidates.

111. UMHS has failed to provide a reasonable justification for Plaintiffs that support mandating a COVID-19 vaccine for transplant patients.

112. Given these pressing ethical and moral issues, it is not surprising that “[a]s of late April, [2021] fewer than 7 percent of transplant programs nationwide reported inactivating patients who were unvaccinated or partially vaccinated against COVID-19.”<sup>26</sup>

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<sup>25</sup> AJT is official journal of the American Society of Transplantation and the American Society of Transplant Surgeons. See 2621.

<sup>26</sup> [Organ centers tell transplant patients to get a COVID shot or move down on waitlist \(bangordailynews.com\)](http://bangordailynews.com) (last viewed on 06/14/2022). Research by Dr. Krista Lentine, nephrologist at the Saint Louis University School of Medicine.

113. COVID patients have been receiving transplants since before the vaccine was available and as of yet there is almost no data on the efficacy of the vaccine in transplant cases.
114. In the transplantation community, it is generally understood that “[t]he goal is to treat the most medically urgent cases first.”<sup>27</sup>
115. In fact, individuals infected with the COVID virus have been receiving organ transplants since 2020, with an increasing number in 2021; some experts predict this will “be a completely new category of transplant patients.”<sup>28</sup>
116. It is arbitrary and capricious and medically inexplicable that recent COVID survivors whose need for transplants resulted from COVID infection received donated organs, yet candidates who refuse COVID vaccines, but have no active COVID infections, cannot.
117. For example, “Mark Buchanan of Roopville, [Georgia] received a double-lung transplant in October, nearly three months after Covid left him hospitalized and sedated, first on a ventilator and then on the last-resort treatment known as ECMO.”<sup>29</sup> “While Emory University Hospital in Atlanta, ... advised [his wife] to withdraw treatment and allow him to die peacefully,” Buchanan eventually received a double-lung transplant at University of Florida Shands Hospital on October 28, 2020.<sup>30</sup>
118. In a similar fashion, Al Brown contracted COVID in May 2020 following which he was diagnosed with congestive heart failure. After he continued to deteriorate, in October 2020, he received a heart transplant.<sup>31</sup>

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<sup>27</sup> See Covid Spawns ‘Completely New Category’ of Organ Transplants. <https://khn.org/news/article/covid-spawns-new-category-of-organ-transplants> (last accessed on 12/10/21).

<sup>28</sup> Id. (quoting Dr. Tae Song, surgical director of the lung transplant program at the University of Chicago Medical Center.)

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

119. Some research at Johns Hopkins University tends to show that organ transplant recipients benefit **less** from COVID vaccines.
120. Johns Hopkins has published two studies in the March and May issues of JAMA in 2021, acknowledging that organ transplant recipients receive fewer benefits from COVID vaccines than others.<sup>32</sup>
121. According to the JAMA study in 2021, “[T]he number of transplant recipients in our second study whose antibody levels reached high enough levels to ward off a SARS-CoV-2 infection was still well below what’s typically seen in people with healthy immune systems.”<sup>33</sup>
122. In a recent article entitled, Doctors ‘Push the Limit’ with Organ Transplants as Covid-19 Extends Waitlists, Dr. Marwan Aboujioud, chair of Henry Ford Health System’s Transplant Institute, was interviewed about how, in the face of COVID, “[the] transplant community start[ed] pushing the limit.” The article explained Dr. Aboujioud’s meaning of the use of the phrase “push the limits”<sup>34</sup>:

By ‘pushing the limit,’ he means using organs from donors who are labeled “increased risk” because of one of a number of factors, including they were old, obese, had diabetes, a history of drug use or were previously incarcerated, among other factors. Instead of simply ruling them out, Aboujioud said there’s value in pairing those increased-risk donors with patients who have higher risk of dying on the wait list.

He used the example of a 70-year-old on dialysis with liver or kidney disease and a 25% chance of dying on the waiting list. If there’s a 3-5% chance of an ‘increased risk’ organ not working, and a 1% chance of the patient developing treatable Hepatitis 8, is it worth the risk to try the transplant instead of waiting for a healthier donor to come along?

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<sup>32</sup> See [Organ Transplant Recipients Remain Vulnerable to COVID-19 Even After Second Vaccine Dose \(hopkinsmedicine.org\)](https://www.hopkinsmedicine.org) (last visited June 16, 2022)

<sup>33</sup> Id.

<sup>34</sup> [Doctors ‘push the limit’ with organ transplants as COVID-19 extends wait lists - mlive.com](https://www.mlive.com) (updated September 29, 2021) (last visited 06/14/2022).

‘At 70 years old on dialysis, your risk of dying is really high,’ he said. ‘Now if I give you kidney with increased risk, it might not last you 15 years but the statistics say you won’t live 15 years ... When I say I can give you five years off dialysis, would you take it? I surely would.’

‘It’s an area the transplant community has battled with for some time. When I say increased risk, it’s for us to manage the risk. We won’t give you a bad organ but we’ll match a donor with a recipient and redefine expectations.’

## COUNT I

### **1<sup>st</sup> AMENDMENT, FREE EXERCISE CLAUSE INFRINGEMENT ON THE PRACTICE OF RELIGION**

123. The Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs above.
124. The United States Constitution recognizes religious liberty and prohibits undue interference with the exercise of religion, including this government.
125. The 1<sup>st</sup> Amendment to the United States Constitution states: “Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof” which has been incorporated via the 14<sup>th</sup> Amendment to apply to the States.
126. The United States Constitution’s prohibition on undue influence with the exercise of religion is violated by a COVID Vaccination Mandate that does not contain a religious exemption for those with sincerely held religious beliefs.



127. Plaintiffs have sincerely held religious beliefs and federal constitutional rights to freely exercise religion which are violated by the COVID-19 vaccination mandate.
128. Defendant violated Plaintiffs' inherent rights to religious freedom when it, without any explanation, transferred their status to "temporarily inactive" in violation of their freedom to practice their religion.
129. Defendant was acting under color of law, including regulations, customs and usage of the federal government in imposing vaccine mandates on the population when they removed the Plaintiffs from the Transplant List and when they imposed the UMHS vaccine mandate.
130. As a direct and proximate result of the Defendant UMHS and the members of the Transplant Board and medical team at UMHS enacting the Vaccine Mandate as a prerequisite to remaining on the Transplant List, and the unlawful conduct of the federal government Defendants and their agencies in coercing UMHS and their providers into enacting the local Vaccine Mandate without Due Process, or reasonable medical justification, and in derogation of the Plaintiff's Constitutional rights, including the rights to religious freedom and bodily integrity, Plaintiffs have suffered severe mental anguish and emotional distress, including but not limited to, stress and anxiety, and emotional pain and suffering.
131. Defendant's unlawful and discriminatory conduct constitutes a willful and wanton violation of Plaintiff's constitutional right to religious freedom and as such, their actions are outrageous and malicious, were intended to injure Plaintiff, and were done with reckless indifference to Plaintiff's constitutional rights, entitling Plaintiff to an award of monetary damages including compensatory and punitive damages.

**WHEREFORE**, the Plaintiff prays for economic and declaratory relief and that this Honorable Court should enter its **ORDER** as follows:

(a). That Defendant restore their place, along with all other similarly situated persons on the active Kidney and Heart Transplant Waiting List, in the position held when they were removed in violation of the law;

(b). That Plaintiffs receive written notification from Defendant that their active status and position on the Kidney and Heart Transplant Waiting List has been restored;

(c). That Defendant not take any adverse action, or otherwise retaliate, against Plaintiffs based on their sincerely held religious beliefs, or request for an exemption, including the matter at bar, from receiving any of the COVID vaccines;

(d). Such other relief, as the court determines to be just and equitable.

## COUNT II:

### **14<sup>TH</sup> AMDENDMENT DEPRIVATION OF LIFE WITHOUT DUE PROCESS OF LAW ENTITLES PLAINTIFF TO DECLARATORY RELIEF IN THEIR FAVOR**

132. The Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs above.

133. The Supreme Court of the United States has weighed in on a number of cases that fundamental rights such as the “fundamental right to an abortion before viability” under a number of cases (c.f. Cruzan)<sup>35</sup> may not be infringed by placing a “substantial obstacle” in the path of exercising that right.

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<sup>35</sup> *Cruzan v. Director, MDH*, 497 U.S. 261 (1990)

134. Placing substantial obstacles on the right to obtain medical care “cannot be considered a permissible means of serving its legitimate ends.”<sup>36</sup>
135. Placing substantial obstacles on the right to obtain medical care “imposes an undue burden on the right to life.”<sup>37</sup>
136. Patients have a constitutional interest in their own right to life.
137. The COVID-19 Vaccination mandate by the UNIVERSITY OF MICHIGAN BOARD OF REGENTS imposes an undue burden on the Plaintiffs’ right to life by seeking medical care free from coercion by government actors and from arbitrary and capricious requirements unrelated to a legitimate medical purpose.
138. The Plaintiffs accrued certain rights by virtue of being approved to be placed on the Transplant List and such rights may not be taken away without providing Due Process of Law and Procedure.
139. No Due Process or interactive process in any way was provided to the Plaintiffs.
140. No reasonable, proportional, or rational justification for the deprivation of their rights to life have been provided by the Defendant.

**WHEREFORE**, the Plaintiff prays for economic and declaratory relief and that this Honorable Court should enter its **ORDER** as follows:

- (a). That Defendant restore their place, along with all other similarly situated persons on the active Kidney and Heart Transplant Waiting List in the position held when they were removed in violation of the law;

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<sup>36</sup> *Whole Woman's Health v. Hellerstedt*, 579 U.S. 582, 136 S. Ct. 2292, 195 L. Ed. 2d 665, 2016 U.S. LEXIS 4063, 84 U.S.L.W. 4534, 100 Fed. R. Evid. Serv. (Callaghan) 887, 26 Fla. L. Weekly Fed. S 360

<sup>37</sup> *Id.*

- (b). That Plaintiffs receive written notification from Defendant that their active status and position on the Kidney and Heart Transplant Waiting List has been restored;
- (c). That Defendant not take any adverse action, or otherwise retaliate, against Plaintiffs based on their sincerely held religious beliefs, or request for an exemption, including the matter at bar, from receiving any of the COVID vaccines;
- (d). Such other relief, as the court determines to be just and equitable.

### COUNT III:

#### **THE MICHIGAN CONSTITUTION RECOGNIZES RELIGIOUS LIBERTY AND PROHIBITS UNDUE INTERFERENCE WITH THE EXERCISE OF RELIGION WHICH IS VIOLATED BY THE DEFENDANT'S VACCINATION MANDATE**

141. The Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs above.
142. The Constitution of the State of Michigan is similar to the federal Constitution and our courts have long recognized that it provides at least as much protection.<sup>38</sup>
143. The Michigan Constitution states at § 4:

*Freedom of worship and religious belief; appropriations. Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. **The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.***

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<sup>38</sup> *Winkler v. Marist Fathers of Detroit, Inc.*, 500 Mich. 327, 901 N.W.2d 566, 2017 Mich. LEXIS 1204

144. Beyond doubt in this context, the Michigan Constitution provides MORE protection than the federal Constitution in that it prohibits the diminishment of civil and political rights and privileges “on account of his religious belief.”
145. The Federal Constitution merely protects against infringements on the practice of religion while the Michigan Constitution prohibits the diminishment of civil and political rights on account of religious beliefs and this would include the fundamental rights to life, for bodily integrity, the right to refuse medical treatment, the right to privacy, and the right to informed medical consent that is not coerced.
146. Defendant diminished the civil and political privileges of the Plaintiffs on account of their religious beliefs in violation of the Michigan Constitution when they imposed the Vaccine requirement and then transferred the status to “temporarily inactive” in violation of their freedom to practice their religion.
147. As a direct and proximate result of the Defendant’s unlawful conduct described above and the violation of Plaintiffs constitutional rights, Plaintiffs have suffered severe mental anguish and emotional distress, including but not limited to, stress and anxiety, and emotional pain and suffering.
148. Defendant’s unlawful discriminatory conduct constitutes a willful and wanton violation of Plaintiff’s constitutional right to religious freedom and as such, their actions are outrageous and malicious, were intended to injure Plaintiff, and were done with reckless indifference to Plaintiff’s constitutional rights.

**WHEREFORE**, the Plaintiff prays for economic and declaratory relief and that this Honorable Court should enter its **ORDER** as follows:

- (a). That Defendant restore their place, along with all other similarly situated persons on the active Kidney and Heart Transplant Waiting List in the position held when they were removed in violation of the law;
- (b). That Plaintiffs receive written notification from UMHS that their active status and position on the Kidney and Heart Transplant Waiting List has been restored;
- (c). That Defendant not take any adverse action, or otherwise retaliate, against Plaintiffs based on their sincerely held religious beliefs, or request for an exemption, including the matter at bar, from receiving any of the COVID vaccines;
- (d). Such other relief, as the court determines to be just and equitable.

**COUNT IV:**

**THE ELLIOT LARSEN CIVIL RIGHTS ACT OF MICHIGAN PROHIBITS DENIAL OF PUBLIC ACCOMADATIONS BECAUSE OF RELIGION, WHICH IS VIOLATED BY THE DEFENDANT’S COVID VACCINE MANDATES AND PROVIDES JUSTIFICATION FOR THIS COURT TO DECLARE THE RIGHTS OF THE PARTIES**

149. Elliot Larsen is the Michigan Civil Rights Act which provides at section 37.2302: “A person shall not: (a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion....”

150. Elliot Larsen defines “Place of public accommodation” as “a business, or an educational...**health**... facility, or institution of any kind...whose...services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

151. The University of Michigan, UMHS, and the University of Michigan Transplant Board are all educational and health facilities or institutions whose services, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
152. UMHS and the government Defendant violated Plaintiffs inherent rights to religious freedom when it, without any explanation, transferred their status to “temporarily inactive” in violation of their freedom to practice their religion.
153. As a direct and proximate result of the Defendant’s unlawful conduct described above and the violation of Plaintiffs constitutional rights, Plaintiffs have suffered severe mental anguish and emotional distress, including but not limited to, stress and anxiety, and emotional pain and suffering.
154. Defendant’s unlawful discriminatory conduct constitutes a willful and wanton violation of Plaintiff’s constitutional right to religious freedom and as such, their actions are outrageous and malicious, were intended to injure Plaintiff, and were done with reckless indifference to Plaintiff’s constitutional rights, entitling Plaintiff to Declaratory Judgment.

**WHEREFORE**, the Plaintiff prays for economic and declaratory relief and that this Honorable Court should enter its **ORDER** as follows:

- (a). That Defendant restore their place, along with all other similarly situated persons on the active Kidney and Heart Transplant Waiting List in the position held when they were removed in violation of the law;
- (b). That Plaintiffs receive written notification from UMHS that their active status and position on the Kidney and Heart Transplant Waiting List has been restored;

- (c). That Defendant not take any adverse action, or otherwise retaliate, against Plaintiffs based on their sincerely held religious beliefs, or request for an exemption, including the matter at bar, from receiving any of the COVID vaccines;
- (d). Such other relief, as the court determines to be just and equitable.

### **SUPPLEMENTAL JURISDICTION AND NOTICE OF ACTION**

155. Plaintiffs give notice they intend to file an action in the United States District Court for the 6<sup>th</sup> Circuit against additional officials and decision makers at the University of Michigan including members of the Transplant Team of physicians, for additional equitable relief and for money damages under Title II, Title IX, Federal and Civil Rights Laws pursuant to 42 USCA 1983, and Elliot Larsen pursuant to 28 USCA 1367.
156. Defendant is liable to the Plaintiffs for damages under 42 USCA 1983 which states: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress”<sup>39</sup>
157. Defendant was acting under color of law, including regulations, customs and usage of the federal government in imposing vaccine mandates on the population when they removed the Plaintiffs from the Transplant List and when they imposed the vaccine mandate.

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<sup>39</sup> 42 USCA Section 1983.



158. As a direct and proximate result of the Defendant and the members of the Transplant Board and medical team at UMHS enacting the Vaccine Mandate as a prerequisite to remaining on the Transplant List, and the conduct of the federal government and their agencies in coercing UMHS and their providers into enacting the local Vaccine Mandate without Due Process, or reasonable medical justification, and in derogation of the Plaintiff's Constitutional rights, including the rights to privacy, religious freedom, informed consent, and bodily integrity, Plaintiffs have suffered severe mental anguish and emotional distress, including but not limited to economic damages, stress and anxiety, and emotional pain and suffering, punitive damages, and such other relief as the court in law or equity decides is just and proper and in such amount as the trier of fact may find.

**WHEREFORE**, Plaintiffs pray this court to enter its Order of Relief Declaring the Rights and responsibilities of the parties and protecting the religious liberty of the Plaintiffs and to ORDER as follows:

- (a). That Defendant restore their place, along with all other similarly situated persons on the active Kidney and Heart Transplant Waiting List in the position held when they were removed in violation of the law;
- (b). That Plaintiffs receive written notification from UMHS that their active status and position on the Kidney and Heart Transplant Waiting List has been restored;
- (c). That Defendant not take any adverse action, or otherwise retaliate, against Plaintiffs based on their sincerely held religious beliefs, or request for an exemption, including the matter at bar, from receiving any of the COVID vaccines;
- (d). Such other relief, as the court determines to be just and equitable.

Respectfully submitted,

PACIFIC JUSTICE INSTITUTE

By: s/ Dave Peters  
David C. Peters II, JD, MS, PhD, Esq.  
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Main Number: (916) 857-6900

VERIFICATION

I, Ross Barranco, declare under penalty of perjury, under the laws of the United States and the State of Michigan, that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter.

DATE: 6/22/22

s/ Ross Barranco

VERIFICATION

I, Kathleen Shier, declare under penalty of perjury, under the laws of the United States and the State of Michigan, that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter.

DATE: 6-22-2022

sl Kathleen Shier

STATE OF MICHIGAN  
COURT OF CLAIMS

**Bundle Cover Sheet**

<b>Lower Court:</b>	<b>L Ct No.:</b>	<b>COC No.:</b> TEMP-WQR4YJ9C
<b>Case Title:</b> ROSS BARRANCO v. UNIVERSITY OF MICHIGAN BOARD OF REGENTS,		
<b>Priority:</b> NONE	<b>Filing Option:</b> File Only	

*Filer Information*

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*Filing Summary*

<b>Filing Type</b>	<b>Filing Name</b>	<b>Fee</b>
Summons and Complaint	Complaint UM Board of Regents 6.23.22 FINAL	\$150.00
	eFiling System Fee:	\$25.00
	NON-REFUNDABLE Automated Payment Service Fee:	\$5.25
	<b>Total:</b>	<b>\$180.25</b>

Alternate Payment Reason: None

The document(s) listed above were electronically filed with the Michigan Court of Claims.

TEMP-WQR4YJ9C-25256314

RECEIVED by MCOOC 6/23/2022 12:51:01 PM

# TrueFiling Case Initiation - Summons and Complaint

**Case Title:**

ROSS BARRANCO V. UNIVERSITY OF MICHIGAN

**Case Type:**

MZ

**Case Description:**

Other Damage Suits: All other claims not otherwise coded

## Party 1 (Plaintiff)

**Name:** Ross Barranco **Phone:** (734) 732-4050

**Address:** PO Box 51787

**City:** Livonia **State:** Michigan **Zip:** 48151

### Attorney(s) for Party 1

**Name:** David Peters **Bar Number:** P48648 **(Lead Counsel)**

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## Party 2 (Defendant)

**Business:** UNIVERSITY OF MICHIGAN BOARD OF REGENTS, **Phone:** (734) 764-0305

**Address:** 2300 Ruthven Building 1109 Geddes Ave

**City:** Ann Arbor **State:** Michigan **Zip:** 48109

**Party is Pro Se**

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## Party 3 (Plaintiff)

**Name:** Kathleen Shier **Phone:** (734) 732-4050

**Address:** PO Box 51787

**City:** Livonia **State:** Michigan **Zip:** 48151

### Attorney(s) for Party 3

**Name:** David Peters **Bar Number:** P48648