No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Michael S. Freeman II,

Petitioner,

v.

Raytheon Technologies Corporation,
U.S. DEPARTMENT OF DEFENSE; LLOYD J. AUSTIN III,
in his official capacity as Secretary of Defense,
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, and
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES;
XAVIER BECERRA, in his official capacity as Secretary of
the Department of Health & Human Services,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

Michael S. Freeman II
Pro Se
3854 Saguaro Cir.
Colorado Springs, CO 80925
719.484.9050
michael.s.freeman2@gmail.com

QUESTIONS PRESENTED

While there are several questions of exceptional importance presented by this case[1], regrettably, we were unable to reach the merits of the case due to lower courts eliciting a series of obvious factual errors, fabrications of arguments to assist Respondents[2], and legal gymnastics. Because of this, we must overcome these obstacles prior to reaching genuine legal issues:

1. What is the magic incantation that a litigant must express to get a judge to read lower court filings?

2. How many significant legal errors does it take before it can be determined that "Manifest Injustice" has occurred?

3. What is the purpose in citing higher-court case law if the lower courts can merely disregard it at will?

4. Can any alleged deficiencies within the Complaint be resolved with allowance of an Amended Complaint?

1) Most importantly, whether the Ninth Amendment protects against violations of the Nuremberg Code.
2) Not to be confused with objective legal analysis.

TABLE OF CONTENTS **Page**

I. PETITION FOR WRIT OF CERTIORARI

Petitioner Michael S. Freeman II (herein referred to as "I")[3] petitions the Court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit.

II. OPINIONS BELOW

The Tenth Circuit's opinion affirming the dismissal of the case is Document number 010111042103, and can be found in Appellate Case 23-1133, and attached as Appendix 1. The Tenth Circuit's denial of the timely Petition for Rehearing, dated June 10th, 2024 [Document # 010111063122] is attached as Appendix 2. The district court's magistrate's recommendations and subsequent Ruling dismissing the case will be attached as Appendix 3 and 4 respectively.

III. JURISDICTION

The Magistrate Judge's Recommendation was filed on February 10th, 2023. *See Appendix 3*. The District Court Judge's Order dismissing the case was filed on March 24th, 2023. *See Appendix 4*. The Tenth Circuit entered judgment on May 2nd, 2024. *See Appendix 1*. The Tenth Circuit denied a Petition for Panel or *En Banc* Rehearing on June 10th, 2024. *See Appendix 2*. This petition is timely filed pursuant to Supreme Court Rule 13.1 seeking review of all lower court rulings. This Court has jurisdiction under 28 U.S. Code § 1254(1).

---

3) Throughout most of these proceedings, I have referred to myself as "Plaintiff" or "Appellant" and I have only recently made the change to "I" in the Petition for Rehearing at the Tenth Circuit. Ostensibly, this connection with the human on the other side of these filings is undesired so that the judges can rule more objectively, however, it did not accomplish that purpose in this case. I am at a breaking point and I literally don't know what to do to get the courts to properly hear my case.

IV. STATEMENT OF THE CASE

I was a Schedule Analyst Manager for Collins Aerospace, a Subsidiary of Raytheon Technologies until my termination in January 2022 for refusing to agree to Raytheon's Vaccine Policy[4] for unvaccinated employees due to its discriminatory and unscientific nature. The policy that I refused to included mandatory working from home, weekly COVID-19 tests (despite working from home), testing 72 hours prior to entering a Raytheon facility[4], and wearing a mask and social distancing while present at Raytheon facilities[4]—*only for unvaccinated employees*. These unscientific measures were concocted, initiated, and promoted by the Federal Respondents DoD, Austin, HHS, and Becerra, then retroactively legalized by EEOC.

V. UNDERSTANDING THE CASE

A. Relevant Chronology

All Respondents (based on motions for extension of time filed at Tenth Circuit) and myself agree that this is a very complex case—it is only the courts trying to treat this as a simplistic lawsuit. To attempt to avert this, I specifically requested that the Tenth Circuit NOT try to understand the merits of the case and remand based on a series of procedural errors from the district court that resulted in the case never being heard on the merits.[5,6] The Tenth Circuit ignored that request and leapfrogged over the significant factual errors in the district court ruling and tried to understand and rule on the merits of the case themselves, resulting in a slew of new errors.

While I wish this Court would remand the case for procedural errors without first trying to understand it, I know that the temptation for judges to try to

understand the merits of a case is irresistible, therefore, I will not structure this Petition in that manner, but my end request will be the same. No judge thus far has understood the case (allegations, claims, legal theories, etc.), meanwhile opposing counsel understands it just fine, meaning that the courts' lack of understanding is more due to lack of effort as opposed to the filings being not cognizably discernable.[7]

Therefore, I will explain it as simply as I can for this Court:

1) On or about August 6th, 2021, HHS Subordinate CDC Director, Rochelle Walensky made the following statement pertaining to COVID-19 vaccines, "They continue to work well with 'Delta' with regard to severe illness and death, but what they can't do anymore is prevent transmission."

2) On September 9th, 2021 President Biden publicly signed an executive order directing agencies to include a clause in new government contracts that **required them to follow all guidance** from the Safer Federal Workforce Task Force (SFWTF), and **required** that employees of federal contractors take a COVID-19 vaccine. (There are **two** relevant elements here, and both lower courts have completely missed one of the elements.)

---

4) When I say "Raytheon", I mean Raytheon and I'm NOT using it interchangeably with Collins Aerospace. Both lower courts have swapped the two at will to suit a narrative not reflective of reality.
5) "On the Merits" is a decision based on the law "as it applied to the particular evidence and facts presented in the case" https://www.law.cornell.edu/wex/on_the_merits
6) It's a simple theory: if a case has enough *procedural* errors (as this one does), the result is meaningless. If a system does not use valid inputs, then the output is inherently void--In this case, inputs refer to allegations, arguments, evidence, etc., and the output refers to the ruling.
7) That's not to say their conclusions are correct, merely that the attorneys understand the case.

3) Following that, Raytheon[4] emailed me informing me that I must submit my vaccination status to Raytheon[4] before October 15th, 2021 and request a reasonable accommodation if not vaccinated before some date in November (I don't remember the exact day) ***or face termination of employment***. [Take note that *Raytheon*[4] directly threatened my employment]. To the best of my knowledge, the discriminatory masking, social distancing, working from home, testing, etc.—only for unvaccinated employees--was not yet enacted. I submitted my vaccination status to Raytheon[4] and applied for a medical reasonable accommodation with Raytheon Human Resources[4] prior to the suspense dates citing concerns with the lack of data for the vaccine and Beta Thalassemia and a series of ethical concerns with HHS' actions during the pandemic ('Fruit of a Poisonous Tree' Doctrine—the vaccine being a fruit of that 'poisonous tree'). Following submission of the medical reasonable accommodation request to Raytheon[4], I received an acknowledgement receipt from Raytheon[4].

4) On October 1, 2021, John M. Tenaglia , DoD Director (of Contracting) signed a memorandum directing contracting officers to immediately "insert the clause 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009)" into a majority of DoD Contracts.

5) In late September 2021 through November 2021, the SFWTF, DoD, and HHS Subordinate CDC concocted, published, and implemented discriminatory policies/guidance against unvaccinated employees (masking, social distancing, weekly testing, etc.). This guidance included weekly testing, masking, and social distancing requirements for unvaccinated employees.

(a) On or about September 24, 2021, the SFWTF published guidance requiring unvaccinated contractor employees to mask, social distance, and take weekly COVID tests. Remember item #2 and #4 of this chronology: *government contractors* ***must*** *follow SFWTF guidance*. (While not explicitly contained in the Complaint, I did ask the district court for leave to incorporate this into the Complaint. This all ties into Section VIII of this Petition.)

(b) On or about October 6, 2021, Defendant HHS' subordinate CDC published recent changes recommending that employers frequently test unvaccinated asymptomatic employees for COVID-19, among other recommendations.

6) Sometime in December 2021 or January 2022, my Reasonable Accommodation Request to remain unvaccinated was approved by Raytheon Human Resources[4], however continued employment was contingent on agreeing to abide by the aforementioned discriminatory measures (masking, social distancing, weekly testing, testing prior to entering a Raytheon facility[4], etc.—only for unvaccinated employees) prior to January 28th, 2022.

7) Sometime in December 2021, a federal court enacted a nationwide injunction against the DoD, stopping them from forcing contractors to vaccinate their employees and abide by SFWTF guidance. On December 14th 2021, a Pentagon spokeswoman, Jessica Maxwell was quoted as stating that the DoD "fully supports" President Biden's executive order (item #2) and that the DoD *"has consistently stated that having a fully vaccinated workforce is one of the surest ways to bolster our readiness and safely meet national security readiness requirements."* Maxwell also stated the contracting officers were instructed "not

to **enforce** the vaccination mandate **at this time**". Of course, the government was appealing the injunction as well.

8) I declined to agree to Raytheon's Vaccine Policy[4] (ultimately the government's) on the verbally declared grounds that it was unscientific and discriminatory, therefore my employment was terminated on January 28, 2022.

9) Following my termination, I filed timely discrimination complaints with the OFCCP, DoD EEOP Office, and EEOC.

10) On March 14, 2022, EEOC initiated a new *retroactive* policy indicating that employer guidance consistent with guidance from HHS (CDC) is considered to be compliant with anti-discrimination laws. Reminder: CDC published guidance supporting frequent testing of unvaccinated employees on or around October 6, 2021.

11) Following confirmation from EEOC that the March 14, 2022 EEOC policy was retroactive and would have applied to my own EEOC case, I then pulled the EEOC complaint (as advised by the Boston EEOC Office Director) and filed this suit seeking monetary damages and injunctive relief.

12) Shortly after the initiation of this case, the CDC, and EEOC changed their policies in a manner that nullified the need for injunctive relief.

This is NOT an exhaustive list of the relevant events that occurred, but merely enough to gain a rudimentary understanding of the chain of events leading to this suit.

B. Policies for Reference

Due to word limits, I must present a broad presentation of these policies. The lack of intellectual curiosity I have seen by five judges thus far is stunning, and it seems most judges are perfectly okay with "floating in the wind" or making stuff up when it comes to the facts of a case. I'm tired of judges floating in the wind on easily provable elements and REALITY must be established: what COVID policies/protocols was the government pushing at the time of my termination?

When I say that President Biden signed an executive order mandating vaccination for contractors and making them abide by guidance of the SFWTF, this is what I'm referring to:

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/

[Appendix 5] [Not specifically cited previously but incorporated via Complaint (para. 43) and Fed. Respondents Motion to Dismiss.]

When I say that the DoD mandated the insertion of certain COVID policy clauses into a majority of defense contracts, this is what I am referring to:

https://www.acq.osd.mil/dpap/policy/policyvault/USA001998-21-DPC.pdf

[Appendix 6] [Incorporated via para. 39 of Complaint].

When I say that SFWTF updated guidance (which contractors had to follow) pushing discriminatory measures on unvaccinated contract employees, this is what I am referring to:

https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf

[Appendix 7] [Requested inclusion within Motion to Vacate and Leave to File additional Amended Complaint at the District Court]

When I say that the CDC (HHS agency) updated their COVID policy for non-healthcare employers to promote discriminatory measures against unvaccinated employees granting them unwarranted scientific legitimacy, an archived copy of that policy can be found as Appendix 8.

[Incorporated via Para. 40 of Complaint].

When I say that EEOC retroactively ratified (determined it didn't violate discrimination law) this discrimination so long as it is compliant with HHS guidance after I submitted my complaint to EEOC, an archived copy of that policy can be found as Appendix 9.

[Incorporated via para. 51 of Complaint].

This Court can review these documents and come to their own determination as to whether I am incorrect or not, or alternatively take my statements about them at face value—but what I beg of this court NOT TO DO (as the two lower courts have) is doubt what I am saying without proper cause.

C. Claims Cheat Sheet

Violation	Violator(s)	Theory
Americans with Disabilities Act (ADA)	Raytheon	Anemia-like symptoms constitute disability. Policy for unvaccinated employees and termination was ADA violation
Genetic Information Nondiscrimination Act (GINA)	Raytheon	Beta Thalassemia (causing Anemia-like symptoms) constitutes a genetic condition. Policy for unvaccinated employees and termination was GINA violation
Rehabilitation Act (RA)	All Federal Respondents	ADA/GINA does not apply directly to federal government, but indirectly through the Rehabilitation Act. Thus ADA, GINA violations are brought through Rehabilitation Act for Fed. Respondents.
Retaliation (ADA, GINA, RA)	All Respondents	Protected communication to Human Resources pertaining to allegations of discrimination plausibly leading to termination of employment.
First Amendment	All Respondents[8]	a) Masking policy against only unvaccinated employees is *Viewpoint-Based* discrimination because it impedes verbal language (which is why politicians would take them off when speaking in public). This policy also does not pass *Strict Scrutiny Test* established in Ward v. Rock Against Racism (1989) because it

		is not narrowly tailored and could not achieve a "compelling government interest", as it was not consistent with other CDC guidance at the time, and the CDC director already admitted the vaccines did not prevent transmission of the virus
Fourth Amendment	All Respondents[8]	Weekly testing policy only for unvaccinated employees is collection and testing of bodily fluids and "the collection and testing of [bodily fluids] intrudes upon expectations of privacy that society has long recognized as reasonable." *Skinner v. Railway Labor Execs.', Chandler v. Miller,); see also Barrett v. Claycomb. "the government knew of and acquiesced in the [private person's] intrusive conduct" and that "the party performing the search intended to assist law enforcement efforts* ***or further his own ends.*** *" United States v. Benoit (10th Cir. 2013).*
Ninth Amendment / Nuremberg Code	All Respondents[8]	Ninth Amendment (in conjunction with other Amendments) protects against violations of the Nuremberg Code. While the treatment experienced here is not as horrific as what occurred in the Holocaust, what has happened here still constitutes *"coercion", "lies", "constraint",* and

		"deceit" for purposes of the Nuremberg Code. Within district court filings, the following elements were established: (1) That the vaccines constituted an experimental product despite FDA approval of a non-available version of the product. (2) That the government was conducting research on the public. (3) That the government's motive behind these policies was to increase uptake of that experimental product. (4) That lies and deceit were exerted by the government in pursuit of that increased uptake. (5) That COVID tests were so uncomfortable as to cross into the realm of painful. These elements combined with the government's vaccine policy constitutes *coercion, lies, deceit,* and *constraint* to increase uptake of an experimental product. "The duty and responsibility for ascertaining the quality of the consent [of the subject] rests upon each

		individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility **which may not be delegated to another with impunity**." *U.S.A. v. Karl Brandt et al., Nov. 21, 1946 - Aug. 20, 1947.* "Because Congress has not said otherwise, we hold the government to its word." McGirt V. Oklahoma (2020). The Nuremberg Code is part of the government's "word" and the Appellant is asking this Court to hold them to it.
Ethics Violations	Respondent Becerra	Extensive ethical concerns pierce the veil of Qualified Immunity
Injunction (Administrative Procedures Act)	Respondents HHS and EEOC	Moot because the policies were changed shortly following initiation of the suit

D. Legal Theories Cheat Sheet

To prevent common misconceptions that lower courts have made, I will present this Cheat Sheet of important elements to understand the suit:

- Despite me working for a subsidiary of Raytheon, the policy that led to the termination of my employment was Raytheon's Vaccine Policy[4] and there is zero rational basis for the notion that the subsidiary had a choice in executing the policy.

8) Raytheon exempt if Fed. Respondents waive "failure to prosecute Raytheon" arguments.

- The bulk of Raytheon's arguments can be summarized in eight words: "Collins Aerospace fired you, so go sue them." Both lower courts have expanded that argument into allegations/arguments that Raytheon never made. Raytheon's argument is a lie *of omission* and leaves out that Raytheon is the one that made Collins Aerospace do it. Raytheon has never argued that Collins Aerospace executed the policy of their own volition, nor have they argued that Raytheon did not make Collins Aerospace enact the policy. Plenty of evidence points to the policy leading to my termination belonging to Raytheon[4], but there is not one shred of evidence in case documents or arguments from Raytheon supporting the notion that Collins Aerospace maintained their own vaccine policy (separate from Raytheon's) that led to my termination, and the fact that five judges have all fabricated a policy maintained only by Collins Aerospace that led to my termination is a testament to how bad our legal system is.

- Respondent Austin is incorporated because the letter I received from the DoD's EEOP Office indicated he must be incorporated for the suit to progress, thus acting as a waiver of qualified immunity for him.

- The Joint DoD-Raytheon employment argument cannot be condensed into a short paragraph and should be reviewed in full context on pages 18-29 of the operative Complaint. However, the main point is that the government's COVID policy that existed at the time of my termination (Vaccine mandate + treating unvaccinated people like leppers) is a policy that only *employers* could implement—This speaks to the government's *Intention*, which is a primary factor for assessing joint employment relationships. Whether or not

the government could get away with it or not is ultimately irrelevant, because the *intention* at the time of my termination is what matters.

- The government's COVID policy (the root of Raytheon's Vaccine Policy[4]) was in the DoD contracts at the time of my termination and only *enforcement* was paused due to an injunction. The government was vociferously appealing that injunction at the time of my termination. The DoD also stated their support for President Biden's contractor executive order following the injunction and before I was fired. This all speaks to intention and *influence* ('significant encouragement') over Raytheon's policy.[4]

- HHS is the parent organization of FDA, CDC, NIH/NIAID, and the powers of those agencies flow through HHS.

- HHS agencies/personnel comprise a large portion of the SFWTF—This includes the Surgeon General, CDC, CDC Director, NIAID Director, Surgeon General, FDA Director, and Respondent Becerra himself.

- The ethics claims asserted against Respondent Becerra serve to destroy qualified immunity.

- On or about August 6th, 2021 CDC Director, Rochelle Walensky publicly stated that *"what [the COVID vaccines] can't do anymore is prevent transmission."* This statement was made prior to initiation of the

discriminatory policies at the heart of this suit. Thus, the government already knew that discriminatory measures against only unvaccinated employees wasn't going to accomplish anything, yet opted to do it anyways. This destroys the foundation of applicability of case law cited using terms such as, "properly", "good faith", "legitimately", "reasonable", "rationally", "genuine belief", and other similar terminology.

- Prevention of transmission of the virus is a foundational basis for the ruling in the popularly cited *Jacobson v. Massachusetts (1905)*--Because these vaccines don't do that, *Jacobson* is inapplicable to this case. A Ninth Circuit Panel recently agreed with this argument in a different case [*Health Freedom Defense Fund, Inc. v. Carvalho (9th Cir. 2024)]*, but in this case the same argument has been ignored. Forcing persons with certain medical conditions to take a vaccine may constitute 'cruel and unusual' punishment according to *Jacobson* as well—This is **directly relevant** to this suit because of my rationale for not taking the vaccine (lack of safety data for vaccine & Beta Thalassemia).

- Scientific/ethics concerns cannot be summarized in one paragraph, but were argued at length in my Opening Brief at the Tenth Circuit. Many of those contentions were repeated by the State of Texas in their lawsuit against Pfizer. See Supplemental Authority [Doc. 11048959 Tenth Circuit]. Kansas v. Pfizer (2024) also repeated similar arguments to mine. These arguments are pertinent to the suit in multiple ways.

- In addition to a lack of vaccine safety data for Beta Thalassemia, part of the rationale for my refusal to take the vaccine was the ethical/science concerns pertinent to Respondent Becerra ['Fruit of a Poisonous Tree' Doctrine].

- CDC guidance is often taken at face value in courts and many cases have been dismissed because of CDC guidance, thus leading to the flowing of legal consequences from CDC guidance (this is a *legal standard* being established).

VI. MANIFEST INJUSTICE

Manifest injustice has plagued this case from early on, and can be categorized into a few overarching categories:

1) Not treating the allegations in the Complaint as true.
2) Factual errors/Violation of Rules of Evidence.
3) Not applying "liberal construction".
4) Misportrayal of arguments/Skipping over arguments.
5) Fabrication of arguments for Respondents.
6) No rational basis.
7) Bias.
8) Applying improper case law.
9) Competency Concerns.
10) Refusal to fix any of these errors even if brought to their attention.

The culmination of these errors has resulted in this case never being properly heard in an objective manner. It is important to understand the history of these errors to

fully grasp how fundamentally unreasonable the lower courts have been to my case from the time Neureiter and Sweeny were assigned to it.

A. Key Errors

While there are many errors that will be explained throughout this Petition, there are several *crucial* errors which lie at the center of why manifest injustice has occurred in this case.

1) The district court adamantly refused to acknowledge the policy leading to my termination being a Raytheon policy no matter how much evidence was cited proving that point and despite their obligation to treat general allegations as true. This results in Failure to Treat Allegations as True error, factual error, and a Violation of the Rules of Evidence. On appeal, the Panel finally acknowledged that it was Raytheon's Vaccine Policy, however the Panel then fabricated the notion that "Collins Aerospace, however, retained the Covid Policy." I literally don't know how to make it clearer how fundamentally untrue the Panel's statement is. Do I need to put it on a flashing neon sign or get a plane to fly a banner stating that this is false? Raytheon never argued that Collins Aerospace opted to retain the policy of their own volition, so this is 100% fabrication from the appellate court. The evidence and arguments of record shows that Collins Aerospace was carrying out Raytheon's Vaccine Policy[4] (as the letter I was given shortly before my termination literally indicates this). No evidence or arguments in the record supports the concept that Collins Aerospace had a choice in terminating my employment or that they were terminating my employment under any policy separate from the Raytheon policy. The fact that courts keep perpetuating factual falsehoods to benefit the Respondents is egregious and no civilized judicial system would function in such a disgusting manner.

2) The district court made no genuine effort to understand the case against the Federal Respondents at all and added absolutely nothing of intellectual value to the conversation. The appellate court then falsely asserted that , "...[The government] had expressly withdrawn its own vaccination mandate by the time Mr. Freeman was fired." This is 100% factually incorrect. The reality is exactly what I have been saying the entire time: enforcement of the policy was paused due to a court injunction and the government was vociferously appealing it. On December 14th 2021, a Pentagon spokeswoman, Jessica Maxwell stated the contracting officers were instructed "not to **enforce** the vaccination mandate **at this time**" and indicated the DoD's continued support of the policy. **This is not the same as withdrawing the policy.** There is no evidence to support the court's assertion that the policy was withdrawn or in-any-way removed from the contracts prior to January 28, 2022. My theory for why the government is still liable despite paused *enforcement* cannot be expressed in entirety due to word limits, but in summary: It would be a nightmare to restart the policy should a higher court overturn the injunction, so companies such a Raytheon keep the policy while the government appeals it to avoid that chaos. The government had the authority to stop pursuing the policy, but made a willful choice to pursue enforcement authority for a policy they knew had no legitimate scientific rationale to support it. If you recognize that this is a cognizable theory that should be acknowledged: CONGRATS! You are doing better than all five lower court judges, because not one of them understood these basic facts and legal theory of this case.

3) The district court made no genuine effort to understand the case against the Fed. Respondents and added nothing of intellectual value to this topic. The appellate court then declared that "Even if the government initially required that contracting employees be vaccinated, it did not promulgate the specific policy at issue..." Boldly incorrect

statements like this make it abundantly clear that these judges had a poor understanding of the case. Unlike many lawyers, I have integrity and can admit that I should have articulated the government's policy a little clearer in my Complaint. To be clear; I did assert that the government was responsible for this policy in the Complaint—however, it should have been articulated clearer (which is what I asked the court for leave to do in my Motion to Vacate their ruling and Leave to File an Amended Complaint). That being said, blurry articulation from a *pro se* litigant is not an adequate basis to justify dismissal of a complaint when a point can be otherwise understood. Moreover, the Panel commits a similar error in their articulation of the aforementioned quote (making a factually incorrect statement), and the courts should take ownership of that. **To be clear for this Court: At the time of my termination, the government was pursuing enforcement authority for their policy of a (1) Vaccination Requirement for contractor employees, (2) Masking, social distancing, and weekly testing (even if working remotely) applicable only to unvaccinated contractor employees. And; (3) Some sort of 72-hour COVID testing requirement for facility access requirement for unvaccinated employees entering contractor facilities.** (1) and (2) are easily provable. See SFWTF Guidance and CDC guidance [Section V (B) of this Petition]. While I don't know the exact government root for (3), I **know for a fact** that such a root exists because Raytheon themselves stated that government guidance played a role in their facility access policy. *See Exhibit 1.*

Exhibit 1 is a letter establishing Raytheon's 72-hour COVID test rule[4], masking, and social distancing for facility access applicable only to unvaccinated Supplier personnel (the policy applied to everyone, just this particular letter was directed to suppliers). Exhibit 1 was incorporated to counter an argument fabricated by the District

Court that I had to take these measures prior to entering *only* Collins Aerospace facilities (neither me nor Raytheon made such a ridiculous argument). Reading this letter carefully reveals that it applies to Collins Aerospace and that they commandeered their subordinate businesses' facilities and referred to them as "Raytheon Facilities" to enact facility access policies (this will be explained in more detail later). Exhibit 1 is cited here to prove the government's influence on Raytheon's facility access policy[4]. It is for these reasons that the government's COVID policy and Raytheon's COVID policy are effectively the same thing and the appellate court's blusterous statement is in clear conflict with reality.

B. Magistrate Errors

From the Motions Hearing conducted on October 13, 2022 by the Magistrate, it quickly became obvious that he had no clue what the case was about or what was argued in the case documents. Because of this, I essentially begged him to *actually* read my court filings, to which he agreed. The Report that he produced made it clear that his agreement to read my filings was a lie, as it reads as if it was written solely based on Respondents' filings and nothing else.

Full arguments are contained within the timely-filed Objection. Due to word limits, I cannot provide the full context of these errors and can only present a summary of them:

1) **Skipping Arguments:** Determined the Complaint violated Rule 8(a)(2) and Rule 8(d)(1) despite contentions made within the complaint addressing the Complaint Length and case law cited in support thereof. The district court judge abandoned this issue after I was forced to waste 1.5 pages of a maximum 10-page Objection mostly repeating arguments that the Magistrate would have known had he read the Complaint and subsequent filings.

2) **Competency Concerns:** Cited a flurry of case law pertaining to Rule

12(b)(6), but made no statement directly pertaining to my case and this Rule.

3) **Not treating Complaint Allegations as True/Factual Error/Skipping Arguments/Violation of Rules of Evidence:** Evaded addressing who enacted the policy despite my Complaint clearly naming Raytheon, thus presenting the illusion that Raytheon had nothing to do with my termination and ignored evidence before him supplied in the Motion for Summary Judgement [Dist. Court Doc. 47] proving it was a Raytheon policy. *See Exhibits 2 & 3.*

Exhibits 2 & 3 show that there is no valid reason for a judge not to have treated the Complaint allegations as true.

4) **Skipping Arguments:** Evaded addressing government influence on Raytheon's decision to implement such an egregious Vaccine Policy.

(a) President Biden signed executive order mandating vaccines and adherence to SFWTF guidance for contractors on September 9th, 2021, then Raytheon initiated a vaccine mandate a week later. Bloomberg news interpreted Biden's executive order as Biden "**order[ing]** all executive branch workers **and federal contractors** to be vaccinated, putting **Raytheon**...at the **government's** tougher stance on vaccinations."[9]

(b) In late September 2021 through November 2021, the SFWTF, DoD, and HHS Subordinate CDC published discriminatory policies/guidance against unvaccinated employees (masking, social distancing, weekly testing despite working remotely, etc.). In December 2021/January 2022 Raytheon then demands that I agree to abide by these same measures.

---

9) https://www.bloomberg.com/news/articles/2021-09-15/raytheon-to-require-coronavirus-vaccinations-for-u-s-employees

5) **Skipping Arguments:** Didn't even acknowledge a single argument made within my Response to Raytheon's Motion to Dismiss (of which there were plenty) pertaining to establishing Raytheon as an Employer for purposes of *Rowland v. Franklin Career Servs., (D. Kan. 2003).* Another red flag that the Magistrate didn't read my filings as he said he would.

6) **Skipping Arguments:** Didn't acknowledge arguments made within my Motion for Leave to File a Surreply filed due to Raytheon adding new and misleading arguments in their Reply brief to the Motion to Dismiss.

7) **Skipping Arguments:** Didn't acknowledge arguments made against sovereign immunity that the Federal Respondents did not contest.

8) **Not Applying "Liberal Construction" Doctrine:** Refused to interpret claims under proper statutes despite the "liberal construction" doctrine and the *intention* of the Complaint being clear and citing the proper laws (ADA, GINA, etc.) multiple times throughout the Complaint (thus putting Respondents "on notice" of the claims against them).

9) **Factual Error:** Claimed that the Complaint did "not allege that the DoD had the right to terminate him, or that it supervised, disciplined, or otherwise set any of the conditions of his employment." This is completely false as the Complaint stated "...**all Defendants** engaged in unlawful discriminatory employment practices **by discriminating against him with respect to the terms and conditions of his employment** based on his disability (Anemia-like symptoms) and genetic condition (Beta Thalassemia)."

10) **Skipping Arguments:** Magistrate showed zero understanding of my

overall theory on the government's involvement in this policy.

11) **Factual Error/Violation of Rules of Evidence/Failure to Treat Allegations as True:** Falsely stated that "...Collins Aerospace [...] who promulgated and enforced the complained-of COVID policies" The Complaint clearly points out that "During or around September of 2021, **Defendant Raytheon** implemented a policy requiring employees to submit their COVID-19 vaccination status through a provided [Raytheon] web portal before October 15th, 2021," *See Exhibits 4, 5, & 6.*

Raytheon[4] is the one that notified all employees of Raytheon's Vaccine Policy[4] and I submitted my vaccine status to Raytheon[4], and Raytheon has never argued otherwise. Thus, the Magistrate made a clear factual error.

12) **Bias:** Declared that my theory of joint-employment with DoD was "absurd", but never explained why. There is no explanation for why such an aggressive conclusion was made when I explained my theory in depth in the Complaint.

13) **Competency Concerns/Cites Improper Case Law: Skipping Arguments/Bias:** Cited non-precedential cases pertaining to the Nuremberg Code as if it was settled law and blindly agrees with the Federal Respondents. Citing non-precedential cases adds weight to an argument, however, the Court provides no proper representation of the Plaintiff's arguments *against* the federal Defendants' citations (that the Ninth Amendment in conjunction with other Amendments protects against violations of the Nuremberg Code)—further revealing the Court's bias.

14) **Factual Error:** Falsely determined that my claims against EEOC pertain to how they processed my complaint despite me pointing out many times that the claims against EEOC pertains to a retroactive *policy* change.

15) **Factual Error:** Again, erroneously pegged Collins Aerospace as implementing the policy-in-question.

16) **Skipping Arguments:** Rejected constitutional violation claims on rationale that it lacked state action and presents no genuine acknowledgement of my theory pertaining to the government's involvement. I argued at length in the Response and Surreply to the Federal Respondents Motion to Dismiss that Raytheon "jointly engaged with the state officials in the conduct allegedly violating the federal right." Janny v. Gamez, 8 F.4th 883, 919 (10th Cir. 2021), and the Magistrate ignored those arguments.

17) **Skipping Arguments/Cites Inappropriate Case Law:** Asserted that "'[t]he Ninth Amendment is not an independent source of individual rights.'" [Citation omitted]. Whilst ignoring that I have never argued the Ninth Amendment *independently*.

C. District Court Judge Errors

Within my Objection, I explicitly requested that the district court judge read my court filings prior to rendering a decision. Through the litany of errors and lack of rational basis for the district court ruling it becomes clear that request was denied as well.

1) **Failure to treat allegations as true/Competency Concerns:** The court cited case law indicating that the Complaint allegations *should* be treated as true, but there is no statement they *would* be treated as such. Based on the court's many factual errors and overuse of the word "allege[s]"[10], it becomes clear that they completely ignored this fundamental doctrine. This overuse of the word "allege[s]" without indication that the court is treating general allegations as true undermines the entire judicial civil complaint process.

2) **Skipping Arguments:** Ignored every argument pertaining to how

Raytheon "exercised control over significant aspects of [my] terms and conditions of employment or the parent dominated the subsidiary's operations to such a degree that the two companies are in reality a single entity." This was clearly and obviously objected to within the Objection.

3) **Fabrication of argument/Factual Error/Bias:** Court stated, "Plaintiff alleges that he was discriminated against after requesting an accommodation (after not getting vaccinated against COVID-19) because vaccinated employees are not required to test negative for COVID-19 and wear a mask before being on the premises of Collins Aerospace." [Citation omitted]. The framing of this by the judge attempts to make the case appear nonsensical, thus revealing the judge's clear bias. This is also factually incorrect and I have never alleged that I was required to take those actions prior to entering only Collins Aerospace facilities. I have always properly maintained that it was "Raytheon facilities" or "company facilities", and based on the context of the word "company" there is no rational basis to support the notion that I was only referring to Collins Aerospace.

Don't believe me? (as no court has thus far on anything absent me providing evidence that shouldn't be needed at this stage). *See Exhibit 7.*

The red underlined portions in Exhibit 7 are relevant to this item. Collins Aerospace is one of Raytheon's "businesses", therefore when it says "we are updating our access requirements for all facilities of Raytheon Technologies ***and its businesses***...(each, a 'Raytheon Facility')", it applies to Collins Aerospace. Moreover, Collins Aerospace is copied on that letter. *See Exhibit 8.*

---

10) Cornell University: "An allegation is defined as a claim of **fact not yet proven to be true**." When a court uses the word "allege[s]", it is literally indicating it doesn't know if the claim is true or not, and without an indication that the court is treating it as true we have no clue as to what factual averments the court is using to reach its determinations.

It matches exactly what I have been arguing in the district court; that Raytheon wanted me to agree to take these actions prior to entering **Raytheon Facilities**.[4] Raytheon has never argued anything contrary to this either, so the district court made a factual error and fabricated an argument to benefit Raytheon.

4) **Factual error:** The court ruled that Collins Aerospace "promulgated and enforced the complained-of COVID policies". As I've proven previously in this filing, it was *Raytheon's* Vaccine Policy[4] and Raytheon[4] promulgated the policy. *See Exhibits 2 & 4.*

Raytheon[4] is the one that notified "all employees" (including me) of its new mandatory vaccination policy. Therefore, Raytheon—not Collins Aerospace—"promulgated" (made widely known) its COVID policy, and this is another factual error from the court.

5) **Factual error/Skipping arguments:** The court falsely asserted that my "only basis for [my] allegations against Defendant HHS is the alleged guidance it issued regarding the COVID-19 pandemic." That was one of them, but several arguments were expressed relevant to HHS that the court ignored.

6) **No Rational Basis:** Summary of relevant allegations/facts not sufficient for the case and omitted everything pertaining to Federal Respondents.

7) **Competency Concerns/Bias:** Within my Objection, I explicitly asked the district court judge to recuse themselves if they could not genuinely read my filings prior to rendering a decision, and based on their extremely poor understanding of the case, they did not accommodate that request.

8) **Violation of Fed. Rules of Evidence:** Court states, "According to

Plaintiff, Raytheon promulgated a vaccine policy where employees must either (1) receive the complete regiment of COVID-19 vaccinations or (2) if approved for a reasonable accommodation, may work from home but must regularly conduct COVID-19 tests, test negative for COVID-19 seventy-two hours before entering a work facility, and wear a facemask while onsite." The use of "According to Plaintiff" is akin to using the word "alleges"[10] and functions in the same manner. *See Exhibits 9 & 10.*

When looking at Exhibits 9 & 10, Please remember that the Reasonable Accommodation Request was submitted to Raytheon[4] and a confirmation email was sent by Raytheon[4]. *See Exhibit 11.* Just because a Collins HR person is communicating it, doesn't magically transform it into a policy of only Collins Aerospace.

Because evidence supported this contention, the use of "According to Plaintiff" is entirely unnecessary.

9) **No Rational Basis:** Court stated, "The magistrate judge largely recommended dismissing these claims under Rule 8 because it could not discern cognizable claims. ('Judges are not like pigs, hunting for truffles buried in briefs.')" [Citation Omitted]. Both the Magistrate and Dist. Court Judge assessed every claim and acknowledged (and denied) my request that claims citing the improper law (Sec. 1981, Title VII) be interpreted under the proper laws (ADA/GINA/RA) using liberal construction, therefore they discerned cognizable claims, and because I explicitly explained how the improperly cited laws should be construed, they would not have to "hunt" for anything.

10) **Factual Error:** Improperly declared I did not comply with the

deficiencies identified by a previous Magistrate. The previous Magistrate indicated that the court was "satisfied" with the Third Amended Complaint. [District Court Doc. 28].

11) **No Rational Basis:** Listed a series of documents they pretended to have read prior to making their ruling, but they did not indicate that they reviewed my Responses or Sur-Replies to the Defendant's Motion to Dismiss.

12) **Factual Error/No Rational Basis/Competency Concerns:** Court stated, *"Plaintiff states in his Objection that the Court fails to understand his argument that 'it was Defendant Raytheon that 'promulgated' this policy—Collins Aerospace was merely executing a policy that Defendant Raytheon made them execute (ultimately to satisfy the government)' (ECF No. 69 at 8). The magistrate judge noted in the Recommendation:*

> *Finally, even if the Court were to construe Plaintiff's employment discrimination claims against Raytheon as being asserted under the ADA and GINA, they still fail because, according to Plaintiff's Third Amended Complaint itself, Collins Aerospace, not Raytheon, was Plaintiff's employer."*

The quote the district judge cited from the Magistrate has nothing to do with who promulgated the policy leading to my termination. This kind of *non-sequitur* raises serious competency concerns, in addition to being logically disjointed (no rational basis) and failing to address the point from the Objection.

13) **Skipping Arguments:** Never explained how my arguments concerning the intertwined nature of Raytheon and Collins Aerospace impacts their decision. While courts might be allowed to do this, skipping over pages of arguments and regurgitating bland case law with no assessment of how it impacts their ruling

deprives the ruling of intellectual value.

14) **Cites Improper Case Law:** Court asserted case law that parent companies cannot be liable for actions of their subsidiaries. Raytheon made Collins Aerospace terminate my employment, so it is not an act of Collins Aerospace, but an act of Raytheon. Raytheon has never argued otherwise, so why the court disagrees with this is beyond me.

15) **Competency Concerns/Failure to Treat Allegations as True:** Court Determined that my Complaint failed *"to show that Defendant Raytheon used Collins Aerospace to perpetuate a fraud or wrong that would permit Plaintiff to pierce the corporate veil."* This raises more competency concerns. The Complaint clearly pleads facts and allegations to support a plausible claim that Raytheon violated the ADA, GINA, and retaliation provisions which constitutes a "wrong" committed by Raytheon through Collins Aerospace. The determination as to whether they violated those laws should be left up to a jury and not a judge doing legal gymnastics to avoid a trial.

16) **No Rational Basis/Skipping Arguments:** The court asserted a bland statement that the Complaint didn't show that DoD, EEOC, or HHS are responsible for the actions taken by Collins Aerospace. This makes it abundantly clear that the court had no understanding of the case and didn't read the Complaint or the subsequent responses.

17) **Skipping Arguments/Factual error:** Court asserted that the *"basis for [my] allegations against Defendant EEOC pertains to the processing of [my] initial discrimination claim and updating the EEOC guidance and policies."* I could not have been clearer in district court filings that the processing of my EEOC complaint was not a

basis for their inclusion in this suit. EEOC is a party because of a retroactive policy change that tried to use HHS to retroactively legalize this discrimination under ADA/GINA/RA. This is another point that shows that the district court did not read my court filings.

18) **No Rational Basis:** The court stated, *"The Court will not analyze claims that were not raised in the [Complaint]. While the Court must construe pro se filings liberally, the claims in the Third Amended Complaint must put the parties and the Court on notice of what is being alleged."* [Citation omitted]. my Complaint Clearly stated that, "In terminating Mr. Freeman's employment, Raytheon violated the Americans with Disabilities Act (ADA), The Genetic Information Nondiscrimination Act (GINA)..." clearly indicating the Plaintiff's *intention* with the filing and putting the parties and the court "on notice".

19) **No Rational Basis/Factual Error:** The court determined that I did not disagree with the Magistrate on sovereign immunity itself, but only sub-issues of sovereign immunity. Attacking the foundation (sub-issues) of the Magistrate's sovereign immunity determination is attacking sovereign immunity. Much like a foundation of a physical building is part of that building--the foundation of a determination is part of that entity. Furthermore, the court's determination is factually untrue because within my Objection, I clearly stated that I *"...provided arguments proving the waiver of sovereign immunity by the federal defendants within his Response to the Federal Defendants Motion to Dismiss,* ***to which the federal defendants did not contest the majority of."***

20) **Factual Error/No Rational Basis:** The Court states, *"Magistrate Judge Neureiter correctly noted that the DoD had not set any conditions of Plaintiff's employment and, based on Plaintiff's allegations in the [Complaint], the only entity that*

hired Plaintiff, promulgated and enforced the COVID19 policy, and terminated Plaintiff's employment was Collins Aerospace." I've already shown that Raytheon promulgated and enacted the policy and Raytheon made Collins Aerospace execute the policy, and Raytheon has never argued otherwise. DoD injected terms and conditions into a majority of DoD contracts on October 1st, 2021.

21) **Factual Error:** *"Despite his claims regarding the EEOC denying his claim in his Third Amended Complaint...."* I have no claim regarding the EEOC *denying* my claim. My EEOC Complaint was voluntarily withdrawn because EEOC changed their policy to retroactively legalize this type of discrimination for purposes of ADA/GINA/RA Compliance.

22) **Competency Concerns:** The Court stated, *"...the Court will only examine sovereign immunity and the EEOC's promulgation of policies during the COVID-19 pandemic."*. The court never examined the EEOC's promulgation of policies.

23) **No Rational Basis/Factual Error:** *The Court stated, "Plaintiff does not argue that he can overcome sovereign immunity as to the EEOC's promulgation of policies or cite any caselaw that supports his position"*. This assertion is a blatant falsehood and easily debunked. I clearly cited the Administrative Procedures Act (APA) in the Complaint, which acts as a *"partial waiver of the sovereign immunity defense as to judicial review under the Administrative Procedure Act* [for non-monetary relief]*"*. Monetary damages are being sought based on the remaining arguments proving waiver of sovereign immunity that the Court ignored.

24) **Factual Error:** Court stated that I did "*...not raise any objections to the magistrate judge's conclusion that sovereign immunity bars his claims against Defendant HHS."*—An APA claim was forged against Defendant HHS in the Third

Amended Complaint for non-monetary relief. I objected to the Sovereign Immunity determination for all Federal Defendants (including Defendant HHS) within my Objection for monetary relief.

25) **Factual Error/No Rational Basis:** The Court stated, *"Plaintiff does not contest the magistrate judge's determination that his pleadings fail for lack of state action." [Citations Omitted].* In my Objection, I stated that the court rejected my *"...claims of constitutional violations on the rationale that it* ***lacks state action.*** *[...]****Plaintiff contends that the case has been adequately laid out in his previous filings to show that Defendant Raytheon "jointly engaged with the state officials in the conduct allegedly violating the federal right." [Citation omitted].*** The Court clearly knew that this was contained within the Objection because the Court cites it in their ruling, so their declaration that I did not contest the Magistrate's determination on this matter is clearly untrue and the Court contradicts itself.

26**) Fabrication of Argument/Bias:** The Court stated that I did *"...not overcome his burden to show that 'the alleged deprivation of constitutional rights was caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible.'"* [Citation omitted]. The Federal Respondents did not make this argument. If the Court wished to raise issues such as this on their own, then a *sua sponte* Order should have been implemented providing me an opportunity to respond.

27) **Factual Error/Skipping Arguments:** The Court stated, *"Plaintiff failed to allege that Defendant Raytheon was responsible as a corporate parent of Collins Aerospace."* Within the Complaint, I clearly "allege[d]" that *"Collins Aerospace is a subsidiary of Raytheon Technologies Corporation* ***and the policy in question is a***

Raytheon policy." I also provided **evidence** that it was a Raytheon policy that the court ignored.

28) ***Fabrication of Arguments*/Skipping Arguments/Bias:** The Court stated, *"Plaintiff also fails to show how the federal agencies were responsible for the actions taken by Collins Aerospace. Thus, the links in his theory are broken and he cannot show that the federal government has violated the [Constitution] for conduct taken by a private actor, namely Collins Aerospace."* The court skipped over pages and pages of arguments and evidence pertaining to Raytheon's Vaccine Policy that they forced on Collins Aerospace to fabricate the notion that Collins Aerospace enacted this policy on their own volition (which was never argued by Raytheon), then they use that deeply flawed determination to undermine the claims against the federal government. This is a complete miscarriage of justice.

29) **Factual Error/Skipping Arguments:** The Court stated, *"Regarding the Ninth Amendment, Plaintiff does not contest the caselaw cited or legal conclusion that the magistrate judge reached, that is, the Ninth Amendment is not an independent source of individual rights."* Within the Objection, I clearly cited the indicated case law and pointed out that my Ninth Amendment claim was asserted "in conjunction with other Amendments" within the Complaint. In the Response to the Government's Motion to Dismiss, I suggested that the Ninth Amendment protects against violations of the Nuremberg Code, but I have never argued it independently.

30) **Competency Concerns:** The Court asserted that, *"The United States Military Tribunal established the Nuremberg Code as a standard against which to judge German scientists who experimented with human subjects." [Citation omitted].* The court never expanded on what the purpose of citing this was, so I'm not sure what they were

getting at.

31) **Fabrication of Argument/Cites Improper Case Law:** The Court then fabricated another argument on behalf of the Defendants in citing a recent non-precedential panel decision from the 7th Circuit that stated that, *"Nothing suggests that [plaintiff] has even an arguable right to sue the defendants under these regulations."*

32) **No Rational Basis/Bias:** In Citation #2, the Court stated, *"Plaintiff alleges that the Federal Defendants present new arguments in the response to Plaintiff's objection. The Court finds that the Federal Defendants' responses are in line with the arguments Plaintiff raised in his Objection and Magistrate Judge Neureiter's analysis in the Recommendation. Furthermore, the Court does not find that the Federal Defendants' arguments are misleading, despite Plaintiff's protests" [Citations Omitted].* The Court allowed the Federal Respondents to slip in new case citations and new arguments in their Response to my Objection and could not even disprove the *example* that the I provided in the Motion requesting Leave to Submit a Reply to the Federal Defendant's Response to the Plaintiff's Objection [Doc. 72]. The Court could not show that the Fed. Respondents cited the case, *Zinn v. McKune, 143 F.3d 1353, 1357 (10th Cir. 1998)* prior to my Objection, yet the court blindly agreed with Respondents once again, showing no discernment. The Court also failed to disprove even the *example* of a *misleading* argument provided in that motion as well.

33) **Refusal to fix any of these errors even if brought to their attention:** Pretty much everything in this list was raised before the district court judge in one form or another (Objection, Motions for Reconsiderations, etc.) and blatantly disregarded. This proves that the district court never genuinely cared about rendering an accurate decision.

D. Appellate Court Errors

While the Appellate Panel did a better job at understanding the case than the district court, that isn't saying very much.

1) **Skipping Arguments:** The Panel didn't acknowledge a single error from the district court. In doing so, the district court does a huge disservice to me and my due process rights.

2) **Factual Error/Fabrication of Argument:** The Panel stated, "Collins Aerospace, however, retained the Covid Policy." There is not one shred of arguments from Raytheon or evidence supporting the assertion that Collins Aerospace retained this policy of their own volition—*not one*. Right before I was fired, they literally referred to it as the "RTX [Raytheon] Vaccine Policy". It's an absolute tragedy that courts make things up to justify dismissal of a case.

3) **Skipping Arguments:** Panel stated, "He refused to comply with the Covid Policy requirements for unvaccinated employees, however, because he believed the policy was ineffectual and discriminatory towards unvaccinated employees." I cannot restate scientific arguments, but I used ~8.5 pages of my Tenth Circuit Opening Brief on Scientific arguments and supporting documentation with the purpose of explaining why I call the mandate "unscientific" and establishing that commonly cited case law on mandatory vaccinations does not apply, which the panel opted to summarize as me "believ[ing]" it was not effective. The most important of which is that the CDC Director at the time admitted that the vaccines didn't stop transmission prior to the government initiating the mandate that eventually led to my termination, which was incorporated through paragraph 35 of my Complaint and my Motion for Summary Judgement. *See Exhibit 12.*

A crucial part of the popularly-cited *Jacobson V. Massachusetts (1905)* was

prevention of transmission of the virus in question. Since these vaccines don't do that, Jacobson (and any case law rooted in Jacobson) is inapplicable.

4) **Misrepresentation of Argument:** Panel stated, "Mr. Freeman subsequently filed a complaint with the EEOC complaining of discrimination but withdrew the complaint before the EEOC completed its investigation." The Panel's framing of this does not portray an understanding of my case against EEOC. **The EEOC policy changed to retroactively allow this kind of discrimination after I submitted the EEOC complaint resulting in the end determination of the EEOC investigation being pre-decided.** Upon receiving confirmation from EEOC that this policy change was retroactive and would apply to my case, and the suggestion of the Boston EEOC Director, I pulled the complaint and pursued court action.

5) **Skipping Arguments/Factual Error:** "...the [district] court treated Mr. Freeman's employment discrimination claims as if they had been asserted under the appropriate federal statutes." **The lower court never did this.** They refused to do this despite specific requests from me asking them to do so. I even pointed this out explicitly in my Opening Brief (pgs 14-15) to the Panel.

6) **Skipping Arguments:** Throughout subsection A of this court's ruling, there is a bizarre focus only upon the complaint itself and not any of my responses or sur-replies to the motions to dismiss. Much of what they pointed out was addressed in those filings. The lower court clearly never read any of my filings as proven by the copious amount of errors in their rulings, and the appellate panel appears to have glanced at the Complaint and the Opening Brief, but 5 nothing else.

7) **Skipping Arguments:** The Panel stated, "(providing the following examples of facts suggesting interrelated operations: the parent keeping its subsidiary's

books, issuing its paychecks, paying its bills, and sharing its employees, headquarters, and office space)." Response:

(a) Appellate brief: "Appellant's last paystub has a Collins Aerospace logo at the top, but the mailing address listed under it is, 'P.O. Box 7000 Greenville, TX 75403'—which Raytheon's own documents reveals is a Raytheon address."—this pertains to "issuing its paychecks". *See Exhibits 13 & 14.*

(b) Appellate Brief: "The 'Letter of Expectation' also states that, '... RTX notified all employees of its new mandatory vaccination policy.'..."Why would the letter use the language 'all employees' if they didn't consider Collins Aerospace employees to be Raytheon employees?"--This pertains to "sharing its employees".

(c) From a Raytheon policy letter (quoted in Appellate Brief): "After careful review of this Guidance, and given Raytheon Technologies extensive business with the U.S. Government, we are updating our access requirements for all facilities of Raytheon Technologies ***and its businesses*** located in the United States**...(each, a 'Raytheon Facility')**."[11] Collins Aerospace is one of Raytheon's "businesses" and was copied on this letter —This letter is declaring that Raytheon's "businesses" (including Collins Aerospace) must follow Raytheon's facility access guidelines and refers to each of these businesses' facilities as "Raytheon facilities". This pertains to "sharing...office space".

8) **Skipping Arguments/Misrepresentation of Arguments:** The Panel stated, "The complaint does include allegations of common ownership, but that, 'standing alone, can never be sufficient to establish parent liability.'" [citations omitted]. My lower court filings and appellate brief never rested on parent company

status alone as a basis for suing Raytheon.

9) **Skipping Arguments:** "[W]hether the 'parent and subsidiary had common employees, shared services, equipment, employees [sic] and office space;' and whether the 'parent controlled [the] subsidiary's payroll and benefit program.'" Most of these were previously addressed. In both lower courts, I pointed out that my benefits were administered through Raytheon. *See Exhibit 15.*

Raytheon then made a *new* argument in their Response my appellate brief pertaining to benefits. I responded by pointing out that for the sake of benefits, I was considered a Raytheon employee. *See Exhibit 16.*

This letter is telling me to tell the insurance company that Raytheon was my employer. Lying to an insurance company is a crime in most jurisdictions. Unless, Raytheon wants to admit that they are telling former employees to lie to insurance companies, then Raytheon was my *employer* for purposes of health and insurance benefits.

10) **Skipping Arguments:** Panel stated, "[P]arent must control the day-to-day employment decisions of the subsidiary." I presented arguments in my Opening Brief (pgs. 1-2, 3-4, 26-27), Reply to Raytheon's Motion to Dismiss (pgs. 7-8), and appellate Reply Brief (pgs. 11-13) 7 that Raytheon "exercised control over significant aspects of [my] terms and conditions of employment..." that both lower courts have ignored.

---

11) https://portal.rockwellcollins.com/documents/754607/1879166/Raytheon+Technologies+COVID-19+Vaccination+Requirements.pdf/55cede66-07d0-3016-3ba2-9b800e35d56b?t=1634934992096

11) **Misrepresentation of Arguments/Skipping Arguments:** Panel stated, "[A] parent's broad general policy statements regarding employment matters are not enough to 'show centralized control of labor relations.' A "policy statement" is- by-definition--a statement about a policy, whereas in this case, at issue is the actual Raytheon policy itself. Furthermore, this wasn't a broad general policy, and it was very specific and directly led to my termination.

12) **Misrepresentation of Arguments/Bias/Factual error/No Rational Basis:** Panel states, "As Mr. Freeman alleges in his complaint, he was hired by Collins Aerospace. When he determined that the Covid Policy was discriminatory against unvaccinated employees, he took his complaints to the human resources department at Collins Aerospace. And when he refused to comply with the Covid Policy, his employment was terminated by Collins Aerospace."

(a) Both lower courts have used the same trick and cheated by stating "the" COVID Policy, so as not to ascribe the policy to Raytheon. For that reason, it is a factual error.

(b) There is no rational basis supporting the Tenth Circuit's argument that telling the local HR employee that was executing my termination under ***Raytheon's* Vaccine Policy**[4] that the policy was discriminatory would undermine everything else pointing to Raytheon. To be clear: I didn't *choose* to go to any specific HR employee as if I was at some Human Resources grocery store—Terri Taylor was the HR person executing Raytheon's Vaccine Policy[4], which is why I told her my disagreements with the policy. The framing of this by the Panel is pure horse manure.

(c) I get that lawyers try to take people's words and twist them to fit a false narrative, but judges should not be engaging in such behavior when they are supposed to be objective. This statement from the court looks like it was written by Raytheon's

attorneys. This is appalling.

13) **Failure to Treat Complaint Allegations as True/Fabrication of Arguments/Factual Error:** The Panel stated, "...[T]here is no allegation from which to infer [Raytheon] had any right to fire Mr. Freeman or any other employee of Collins Aerospace." Raytheon never made this argument that the Tenth Circuit produced here. Moreover, their assertion is demonstrably false. Paragraph 36 of the Complaint: "During or around September of 2021, **Defendant Raytheon** implemented a policy requiring employees to submit their COVID-19 vaccination status through a provided web portal before October 15th, 2021, **or face termination of their employment.**" Because I knew the courts would refuse to treat my allegation as true, I was forced to provide *evidence* (which shouldn't be needed at this stage) that Raytheon threatened me with termination. *See Exhibit 17.*

Red arrows point to elements pertinent to Raytheon. The third paragraph proves that Raytheon threatened me with termination.

The Blue arrow points to elements relevant to government influence over this policy—of note is that Raytheon is ascribing the policy to the government. This aligns with what this entire lawsuit is about.

This evidence should not have been needed, but alas, 5 judges so far have been fabricating arguments and asserting falsehoods to build their own reality, then they judge that alternate reality instead of the case before them.

14) **No Rational Basis:** Panel stated, "Mr. Freeman claims that being forced to abide by the discriminatory Covid Policy under threat of termination violated his [constitutional] rights... These claims fail because Mr. Freeman has not alleged facts from which to infer Collins Aerospace was a government actor." Response: This court does the

same trick as the lower court by using a deeply flawed determination that Raytheon is not liable for my termination to undermine claims pertinent to the federal government. This is incredibly disheartening.

15) **Skipping Arguments:** The Panel stated, "Several principles underlie the constitutional distinction between government action and private conduct, including the desire to avoid holding the government responsible for conduct beyond its control." Response: The government is the one that concocted and made government contractors enact this unscientific and discriminatory policy. Please read pages 27 through 34 of my Appellate Brief. See also Supplemental Authority [10th Cir. Doc. Doc. 11028420].

16) **Factual error/Skipping Arguments:** "Even if the government initially required that contracting employees be vaccinated, it did not promulgate the specific policy at issue..." The court stated this, yet they are unable to point to any element of the policy that I refused to agree to that the government did not promulgate.

17) **Factual error:** Panel stated, "...[The government] had expressly withdrawn its own vaccination mandate by the time Mr. Freeman was fired." The policy was not withdrawn or suspended the policy before I was fired and it was in the contracts when my termination was executed. *Enforcement* was suspended while the government appealed an injunction, and the DoD still maintained their support of the policy.

18) **Factual Error/Fabrication of Arguments:** Panel stated, "Collins Aerospace opted to retain its Covid Policy, but Mr. Freeman cannot hold the government liable for the decision of a private employer to enforce its own employment policies." There is not one iota of evidence or argument from Raytheon supporting the notion that Collins Aerospace did this of their own volition, nor has Raytheon argued such because it would be perjury. It is disgraceful that our nation's courts keep spinning falsehoods to

protect the Respondents. The court is also putting their head in the sand about the government's involvement in Raytheon's Vaccine Policy.

19) **Improper Legal Citation:** Panel stated, "Mr. Freeman claims Raytheon, and by extension Collins Aerospace, had a financial incentive to comply with the government's COVID-19 policies. That is not enough to transform those entities into government actors. See *Gilmore v. Salt Lake Cmty. Action Program, 710 F.2d 632, 636 (10th Cir. 1983)*" Due to word limits, I cannot restate my argument against this citation in full as I did in my Tenth Circuit Rehearing Petition, but in short (1) *Gilmore* indicated "absent evidence of state influence or control over those decisions." State influence is heavily involved in this case, if any judge bothered to read it. (2) Gilmore pertained to summary judgement and not dismissal. Summary Judgement means "no dispute as to material fact", which is not present in this case as the courts have been frequently doubting many material facts on behalf of the Respondents. Contested facts should be decided by a jury and not judges. *Arbaugh v. Y & H Corp., 546 U.S. 500 (2006)* citing *Reeves v. Sanderson Plumbing Products, Inc. (2000).*

20) **Skipping Arguments:** "Finally, even if Collins Aerospace could be considered a government actor, that does not automatically convert its termination of Mr. Freeman into government action." [Citations omitted]. Response: I never said it did—which is why there is pages and pages of arguments pertaining to government involvement that both lower courts have ignored.. Analysis of "significant encouragement" (legal term) factors has not been conducted.

21) **Skipping Arguments/Misrepresentation of Arguments:** Panel stated, "[C]ourts have held the Ninth Amendment does not create a private right of action. And Mr. Freeman has not identified any statute creating a private right of action for

violations of the Nuremberg Code..." [Citations Omitted]. I assert that the Ninth Amendment protects against violations of the Nuremberg Code. The Ninth Amendment should not be treated differently than any other Amendment in this regard—to include private right of action.

22) **Skipping Arguments:** Panel stated, "[T]he ninth amendment has never been recognized as independently securing any constitutional right" [Citations omitted]. The courts refuse to acknowledge that I've never argued the Ninth Amendment *individually*. I've asserted it in conjunction with other constitutional amendments and the Nuremberg Code and presented arguments to that effect that both courts have disregarded.

23) **Improper Case Citation:** The panel cites Fed. R. App. P. 4(a)(4)(B)(ii) to allege that the court doesn't have jurisdiction to review motions for reconsideration filed in the lower court—This rule does not specify that it is jurisdictional in nature as required by the Supreme Court in *Hamer v. Neighborhood Hous. Servs. of Chi. (2017)*. The panel also cites *Matney v. Barrick Gold of N. Am. (10th Cir. 2023)* which is in flagrant contradiction to the Supreme Court determination made in *Hamer*. It should also be noted that the Tenth Circuit contradicts their own policy that "Fed. R. App. P. 3(c)(4) clarifies that a notice of appeal encompasses all orders that merge into the designated judgment or appealable order.[...]an appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is limited to that designated part. **However, without an express statement such designations do not limit the scope of the notice of appeal.**"[12] Moreover, the court ascended the case to their jurisdiction prior to the expiration of time to file a second notice of appeal.

24) **Refusal to fix any of these errors even when brought to their**

attention: These issues were brought before them in a Rehearing Petition and the court denied that request without fixing a single error.

VII. SOVEREIGN IMMUNITY

The Fed. Respondents will argue that sovereign immunity bars my claims against the government. While the district court blindly agreed with them, the Tenth Circuit did not expressly cite sovereign immunity as a basis for affirming the dismissal. It is important to note two things: (1) Sovereign immunity is baked into some of the issues at hand—particularly state action and joint-employment (meaning that court errors regarding those matters are applicable to sovereign immunity). (2) Arguments external to state action/joint-employment were rendered in district court and repeated in appellate brief (pgs 43-46), and cannot be repeated here due to word limits, however, they will be contained within the full brief if allotted review by this court.

VIII. FAILURE TO SHOW THAT ALLOWANCE OF AMENDED PLEADING WOULD NOT FIX THE DEFICIENCIES

The entire court system in this country has lost the plot when it comes to civil complaint reviews. On one hand, judges scream at plaintiffs to make the complaint as short and plain as possible[13], but on the other hand they dismiss complaints because the complaint itself doesn't include 9 million different elements that no rational person (especially a non-lawyer) could predict needed to be included, whilst the judge ignores responses and sur-replies to motions to dismiss. The court system has strayed light-years away from the original purpose of a civil complaint.

> *"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which*

prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment." Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938).

Since 1938, complaints have evolved into a bizarre exercise where one must produce an all-encompassing document that successfully predicts an infinite series of arguments that opposing parties may render while concurrently being as short and plain as possible[13]. Reviewing a litigant's documents external to the complaint itself is necessary because...

"[D]ismissal of a pro se complaint for failure to state a claim is proper only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend." Gee v. Pacheco, 627 F.3d 1178, 1195 (10th Cir. 2010) quoting *Oxendine, 241 F.3d at 1275.*

This understanding is based on a simple principle: How the hell would a judge know if a complaint could be fixed via an amendment if they are not reading or understanding documents external to that complaint? They can't. For this reason alone, the current schema for complaint review is contradictory to the concept of due process under the law.

---

12) https://www.ca10.uscourts.gov/sites/ca10/files/clerk/Rules%20Changes%20Memo.pdf

13) This rule applies to "claims" and not the entire Complaint, but--often (and in this case)—the courts try to inexplicably intertwine the two and apply the rule to the whole complaint. A non-lawyer should not have to point this out to a judge, but yet I had to waste words in a limited Objection pointing this out.

For the record, *yes*, following the district court ignoring two other fundamental principles (treating complaint allegations as true and liberal construction of *pro se* pleadings) which would have negated the need for another complaint, I moved to vacate the court's ruling and for leave to file an amended complaint. While such a document would be the fifth complaint, looking at the history of Pleading versions doesn't reveal incompetence on the part of myself.

This Court should fix this issue permanently and in this case.

IX. CONCLUSION

It is for the foregoing reasons that manifest injustice has occurred in this case and this Court should use its extraordinary discretion to remand this case—without ruling on the merits-- with instructions to allow an amended pleading to fix any alleged deficiencies. Should the Court not wish to do that, then please grant me 20,000 words and unlimited pages to produce a brief explaining this case in full due to its immense complexity.

Respectfully submitted,

/s/Michael S. Freeman II
Michael S. Freeman II
Pro Se
3854 Saguaro Cir.
Colorado Springs, CO 80925
719.484.9050
Michael.s.freeman2@gmail.com

No. _____

In the

Supreme Court of the United States

Michael S. Freeman II,

Petitioner,

v.

Raytheon Technologies Corporation, *et al.*

Respondents.

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I, Michael S. Freeman II, certify the Petition for a Writ of Certiorari contains exactly 11, 637 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).This is 2,637 words more than allowed by Supreme Court Rule 33.1(h).

A Motion requesting an exception to 33.1(h) and establishing good cause for the extra 2,637 words has been filed concurrently with the Petition.

I declare under penalty of perjury the foregoing is true and correct.

This 17th day of July, 2024.

/s/Michael S. Freeman II
Michael S. Freeman II
Pro Se
3854 Saguaro Cir.
Colorado Springs, Colorado 80925
(719) 484-9050
michael.s.freeman2@gmail.com