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11 Courtney Barrow, A.B., Margaret Sargent, M.S.,  
12 W.S., and A Voice for Choice, Inc.

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

15 DEVON TORREY-LOVE; S.L.;  
16 COURTNEY BARROW; A.B.;  
17 MARGARET SARGENT; M.S.;  
18 W.S.; and A VOICE FOR CHOICE,  
19 INC. on behalf of its members,

20 Plaintiffs,

21 v.

22 STATE OF CALIFORNIA,  
23 DEPARTMENT OF EDUCATION;  
24 STATE OF CALIFORNIA, BOARD  
25 OF EDUCATION; TOM  
26 TORLAKSON, in his official  
27 capacity as Superintendent of the  
28 Department of Education; STATE  
OF CALIFORNIA, DEPARTMENT  
OF PUBLIC HEALTH; DR.  
KAREN SMITH, in her official  
capacity as Director of the  
Department of Public Health;  
EDMUND G. BROWN JR., in his  
official capacity as Governor of  
California; KAMALA HARRIS, in  
her official capacity as Attorney  
General of California,

Defendants.

Case No.: 5:16-cv-2410

**COMPLAINT FOR DECLARATORY,  
INJUNCTIVE, OR OTHER RELIEF**

1 Plaintiffs complain of Defendants and allege:

2 **INTRODUCTION**

3 1. The right to control one’s own life and medical decisions has long  
4 been viewed as a fundamental right of the United States Constitution, and the  
5 United States Supreme Court has specifically upheld such “fundamental rights to  
6 determine one’s own medical treatment, and to refuse unwanted medical treatment,  
7 and has recognized a fundamental liberty interest in medical autonomy.” *Coons v.*  
8 *Lew*, 762 F.3d 891, 899 (9th Cir. 2014). Furthermore, the right to an education is  
9 a fundamental right enumerated within the California Constitution. But today, as a  
10 consequence of the passage of California Senate Bill No. 277, and all resulting laws  
11 and amendments to laws, namely Sections 120325, 120335, 120338, 120370, and  
12 120375 of California’s Health and Safety Code (collectively referred to herein as  
13 “§ 120325 *et seq.*” or “Section 120325 *et seq.*”), and through the enforcement of  
14 these laws, the State of California now strips citizens of their constitutional rights  
15 by prohibiting children from receiving a K-12 school education unless they, or their  
16 parents, choose to give up a fundamental right to control what types of medications  
17 are put into such child’s body. This unconstitutional condition not only infringes  
18 on the unquestioned due process rights of a parent to make decisions on the care  
19 and upbringing of their own child, it also creates circumstances for children who  
20 are consequently denied their right under Article 9 of the California Constitution to  
21 a K-12 public school education, as those children are thereby ostensibly forced to  
22 be home-schooled in an environment that is often not conducive to learning or  
23 acquiring essential social skills. This unequal treatment of school-aged children in  
24 California not only denies both the children and their parent(s) of their  
25 constitutionally afforded due process rights, but such treatment also denies them  
26 the basic liberties and equal protection under the law that are guaranteed by the  
27 Fourteenth Amendment to the United States Constitution. In stark contrast to  
28 California’s passage of Section 120325 *et seq.*, the U.S. Supreme Court has ruled



1 that one of a state's "limitations is that it may not impose conditions which require  
2 the relinquishment of constitutional rights. If the state may compel the surrender of  
3 one constitutional right as a condition of its favor, it may, in like manner, compel a  
4 surrender of all. It is inconceivable that guaranties embedded in the Constitution of  
5 the United States may thus be manipulated out of existence." *Frost v. Railroad*  
6 *Comm'n of Calif.*, 271 U.S. 583 (1926).

7         2. The California Constitution requires "the Legislature to 'provide for a  
8 system of common schools by which a free school shall be kept up and supported  
9 in each district'" and such a provision "entitles 'the youth of the State ... to be  
10 educated at the public expense.'" *Hartzell v. Connell*, 35 Cal.3d 899, 904 (1984).  
11 However, § 120325 *et seq.* not only places the burden of California's required  
12 vaccines on many of the parents trying to enroll their school-aged children in public  
13 school, but for those who do not want to relinquish theirs and their children's  
14 constitutional rights to bodily autonomy, it also places the financial burden on the  
15 parents of having to homeschool, and in some instances, for the child's parent to  
16 forego an income and employment in order to effectuate homeschooling for their  
17 children. *Hartzell* further clarified this issue by stating that "in guaranteeing 'free'  
18 public schools, article IX, section 5 fixes the precise extent of the financial burden  
19 which may be imposed on the right to an education [to] **none**" and "a school which  
20 conditions a student's participation in educational activities upon the payment of a  
21 fee clearly is not a 'free school.'" (*Emphasis added.*) *Id.* at 911. Yet, regardless of  
22 this plain and unequivocal language, § 120325 *et seq.* continues to be enforced by  
23 the Defendants in contradiction of such rulings.

24         3. For these reasons, Plaintiffs ask this Court to enjoin, preliminarily and  
25 permanently, Section 120325 *et seq.* and any other California statutes that seek to  
26 require a child to comply with receiving medications before such child may  
27 exercise their right under the California Constitution to attend K-12 public school  
28 education.

1 **JURISDICTION AND VENUE**

2 4. This case raises questions under the Constitution of the United States  
3 and 42 U.S.C. § 1983, and thus this Court has jurisdiction over all claims for relief  
4 pursuant to 28 U.S.C. § 1331.

5 5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because  
6 a Plaintiff resides in this district and all Defendants reside in the State of California.  
7 Venue is also proper in this Court because a substantial part of the events giving  
8 rise to the claim occurred in this district.

9  
10 **NATURE OF DISPUTE**

11 6. This action pursuant to 42 U.S.C. § 1983 seeks (1) a declaration that  
12 § 120325 *et seq.*, which requires a child to comply with receiving medical  
13 procedures involving vaccinations, vaccines, and/or medical treatments related to  
14 or involving vaccines (collectively referred to herein as “medical treatments”)  
15 before such child may exercise their right under the California Constitution to  
16 attend K-12 public school education, is unconstitutional under the Due Process and  
17 Equal Protection Clauses of the Fourteenth Amendment to the United States  
18 Constitution, and (2) a preliminary and permanent injunction preventing  
19 Defendants from enforcing that provision against Plaintiffs.

20 7. Certain Plaintiffs in this complaint are school-aged children who wish  
21 to exercise their right afforded under the California Constitution to attend K-12  
22 public school education, but § 120325 *et seq.* denies those Plaintiffs that right in  
23 violation of the Equal Protection and Due Process Clauses of the Fourteenth  
24 Amendment to the United States Constitution.

25 8. Certain Plaintiffs in this complaint are parents of school-aged children  
26 who desire that their child attend K-12 public school education, as afforded to their  
27 child by the California Constitution, without the requirement to comply with  
28 medical treatments being administered to each applicable parent Plaintiff’s child or



1 children. § 120325 *et seq.* denies their child this right and infringes on the Plaintiff  
2 parents' right to refuse medical treatments on behalf of their child as well as parent  
3 their child in the manner that the Plaintiff parent views as best for their child's well-  
4 being. The right of a parent to raise their child in the manner they see fit is a  
5 fundamental right that has long been upheld and should not be abridged under these  
6 circumstances.

7 9. Plaintiff A Voice for Choice, Inc. is a non-profit corporation which  
8 focuses on protecting the rights of individuals and ensuring that people have a  
9 choice in what medications are put into the bodies of their children and themselves.  
10 § 120325 *et seq.* requires that school-aged children receive numerous medical  
11 treatments, or else they are forced to give up their right to a constitutionally  
12 afforded K-12 public school education. As such, in conjunction with all other  
13 Plaintiffs, A Voice for Choice, Inc. has brought this suit in representation of the  
14 many parents and children in the State of California who have been  
15 unconstitutionally affected by this law.

16 10. To enforce the rights afforded by the United States Constitution and  
17 the California Constitution, Plaintiffs bring this suit pursuant to 42 U.S.C. § 1983  
18 for declaratory and injunctive relief against the enforcement of § 120325 *et seq.*  
19 and any and all related or resulting statutes. Plaintiffs also seek to recover all their  
20 attorneys' fees, costs, and expenses incurred in this action and any other relief that  
21 this Court may order.

## 22 THE PARTIES

23 11. Plaintiff Devon Torrey-Love is a California citizen and resides in  
24 Humboldt County, California, and is the parent of minor child S.L. Devon wishes  
25 to exercise her fundamental right to raise her own child, and through the passage  
26 and enforcement of § 120325 *et seq.*, she has now been denied this right. As the  
27 parent of S.L., Devon has made the personal parenting decision not to administer  
28 medical treatments to S.L. Devon has raised other perfectly healthy children

1 without medical treatments, but now must bear the burden of staying home and  
2 foregoing a much-needed income to homeschool S.L. due to the passage and  
3 enforcement of § 120325 *et seq.*, as § 120325 *et seq.* has removed all other  
4 schooling options from the Loves.

5 12. Plaintiff, minor child S.L., is a California citizen and resides in  
6 Humboldt County, California, and is the child of Devon Torrey-Love. S.L. is five  
7 years old and is currently being homeschooled at the Kindergarten level due to the  
8 family's unwillingness to vaccinate S.L. in accord with the statutory scheme  
9 requiring unwilling medical treatments to attend school. Before the passage of §  
10 120325 *et seq.*, S.L. had a personal belief exemption allowing him to attend Pre-  
11 Kindergarten, but that exemption has since been revoked from him through the  
12 passage and enforcement of § 120325 *et seq.* As such, S.L. has been denied the  
13 right to continue with his public-school education unless he gives up his ability to  
14 exercise his right to bodily autonomy and gives up his right to refuse medical  
15 treatments. S.L. does not currently have and is unable to obtain a medical  
16 exemption.

17 13. Plaintiff Courtney Barrow is a California citizen and resides in  
18 Riverside County, California, and is the parent of minor child A.B. Courtney wishes  
19 to retain her fundamental right as a parent to raise her own child without the  
20 necessity to have to inject her children with numerous vaccines. As the parent of  
21 A.B., Courtney has made the personal parenting decision not to vaccinate A.B.  
22 Since the passage of § 120325 *et seq.*, Courtney has been unable to obtain an  
23 exemption for her child to attend public school as intended and has consequently  
24 been forced to forego earning an income in order to homeschool her child, all to  
25 the detriment of her family.

26 14. Plaintiff, minor child A.B. is a California citizen and resides in  
27 Riverside County, California, and is the child of Courtney Barrow. A.B. is five  
28 years old and is currently being homeschooled at the Kindergarten level due to not



1 currently being in compliance with each and every one of the now statutorily  
2 required medical treatments for admission and attendance within a public school in  
3 California. Before the passage of § 120325 *et seq.*, A.B. had a personal belief  
4 exemption allowing her to attend Pre-Kindergarten, but that exemption has since  
5 been removed from her due to the passage and enforcement of § 120325 *et seq.* As  
6 such, A.B. has been forced to give up the right to attend public school because she  
7 wishes, among other things, to exercise her right to refuse medical treatment. A.B.  
8 does not currently have and is unable to obtain a medical exemption.

9       15. Plaintiff Margaret Sargent is a California citizen and resides in Alpine  
10 County, California, and is the parent of minor children, M.S. and W.S. Margaret  
11 desires to retain her fundamental right as a parent to raise her own child without the  
12 necessity to have to inject her children with numerous vaccines. As the parent of  
13 M.S. and W.S., Margaret has made the personal parenting decision not to subject  
14 M.S. and W.S. to medical treatments. As her husband is an enlisted member of the  
15 U.S. Military and there currently is no option whatsoever to move outside of  
16 California, Margaret must now bear the burden of foregoing much-needed income  
17 to homeschool M.S. due to Section 120325 *et seq.*

18       16. Plaintiff, minor child M.S. is a California citizen and resides in Alpine  
19 County, California, and is the child of Margaret Sargent. M.S. is six years old and  
20 is currently enrolled in the first-grade at a public school as a result of a  
21 “grandfathered” personal belief exemption which will expire as a result of the  
22 passage and enforcement of § 120325 *et seq.*, thereby denying her the right to  
23 continue with her public-school education unless she gives up her right to bodily  
24 autonomy and gives up her right to refuse medical treatments. Due to not currently  
25 being in compliance with each and every one of the now statutorily required  
26 medical treatments for admission and attendance within a public school in  
27 California, M.S. will be denied her constitutional right to continue to attend public  
28 school prior to her completion of such schooling. As such, M.S. will be forced to

1 give up her Constitutional right and choice to refuse medical treatment if she desires  
2 to exercise her right to attend any public school. M.S. does not currently have and  
3 is unable to obtain a medical exemption.

4 17. Plaintiff, minor child W.S. is a California citizen and resides in Alpine  
5 County, California, and is the child of Margaret Sargent. W.S. is five years old and  
6 will be homeschooled at the Kindergarten level due to not currently being in  
7 compliance with each and every one of the now statutorily required medical  
8 treatments for admission and attendance within a public school in California. W.S.  
9 will be denied his fundamental right to a public-school education unless he gives  
10 up his ability to exercise his right to bodily autonomy and gives up his right to  
11 refuse medical treatments. W.S. does not currently have and is unable to obtain a  
12 medical exemption.

13 18. Plaintiff A Voice for Choice, Inc. is a California 501(c)(3) non-profit  
14 corporation which asserts claims on behalf of its members who have been  
15 unconstitutionally impacted by § 120325 *et seq.*

16 19. The State of California is the legal and political entity with the non-  
17 delegable responsibility of educating all of California's school children by  
18 providing a free public education under Article IX, Section 5 of the California  
19 Constitution, and by ensuring that all California children retain their fundamental  
20 right to an equal education under the equal protection clauses of Article I of the  
21 California Constitution.

22 20. Defendant California Department of Education is the governmental  
23 department responsible for administering and enforcing California's laws related  
24 to education.

25 21. Defendant California Board of Education is responsible for  
26 determining the policies governing California's schools and for adopting rules and  
27 regulations for the supervision and administration of all local school districts.  
28 Pursuant to California Education Code sections 22020-22032, Defendant



1 California Board of Education is required to supervise local school districts to  
2 ensure that they comply with federal and California state laws concerning  
3 educational services.

4 22. Defendant Tom Torlakson, sued in his official capacity, is the  
5 Superintendent of Public Instruction for the State of California, the Secretary and  
6 Executive Officer for the State Board of Education, and the Chief Executive Officer  
7 of the California Department of Education. He is obligated to take all necessary  
8 steps to ensure that school districts comply with the California Constitution and  
9 laws of the State of California. Pursuant to the California Education Code, he is the  
10 Director of Education in whom all executive and administrative functions of the  
11 California Department of Education are vested. He is responsible for ensuring that  
12 all children within the State of California receive a free and equal public education,  
13 as enumerated and guaranteed under the California Constitution.

14 23. The California Department of Public Health is a state agency created  
15 by California statute, charged with implementing the California Health and Safety  
16 Code and regulating the statutes at issue, including, *inter alia*, Health & Safety  
17 Code §§ 120325, 120335, 120338, 120370, and 120375.

18 24. Defendant Karen Smith, MD, MPH, sued in her official capacity, is  
19 the Director and State Public Health Officer for the California Department of Public  
20 Health. She is obligated to take all necessary steps to ensure that the California  
21 Department of Public Health and local health departments comply with federal and  
22 California state laws in discharging their duties to protect public health and safety.

23 25. Defendant Edmund G. Brown, Jr., is the Governor of the State of  
24 California. In his official capacity, the Governor is the chief executive of the State  
25 of California. It is his responsibility to ensure that the laws of the State are properly  
26 enforced.

27 26. Defendant Kamala Harris, is the Attorney General of the State of  
28 California. In her official capacity, the Attorney General is the chief legal officer

1 of the State of California. It is her duty to see that the laws of the State are uniformly  
2 and adequately enforced.

3 27. All Defendants either are recipients of federal and California state  
4 funds in support of the operation of schools or health departments, or are  
5 responsible for and capable of ensuring that federal and California state funds are  
6 spent by recipients in a constitutional, nondiscriminatory manner in the California  
7 public school system.

8 28. Plaintiffs are informed and believe, and based thereon allege, that all  
9 of the Defendants were, are, and for so long as § 120325 *et seq.* remains in full  
10 force and effect will continue to be, in some manner, legally liable for the conduct  
11 at issue in this action. Plaintiffs are further informed and believe, and based thereon  
12 allege, that each Defendant was at all times acting with the implied or express  
13 direction, approval, and ratification of each of the other Defendants.

14  
15 **FACTS**

16 29. The United States of America holds long standing traditions and  
17 legally protected rights for its citizens involving the freedom of choice, the  
18 upbringing of one's own child, and the right to refuse medical treatments, and  
19 numerous United States Supreme Court cases have affirmed and applied those  
20 fundamental rights. However, such rights are slowly being chipped away through  
21 indirect means of government overreach.

22 30. California schools currently have a vaccine list that now requires a  
23 total of twenty-six (26) medical treatments for children to enter Kindergarten, with  
24 even more doses required later on.

25 31. California has required school-aged children to receive all of the  
26 vaccinations present on California's required list for many years, but reasonable  
27 exemptions from such vaccination list had always previously been available and  
28 exercisable. Even California's very first vaccine mandate in 1961, which was



1 administered to counteract polio, was subject to exemption. California's list of  
2 mandated vaccines has since increased dramatically.

3 32. California previously allowed children to receive a public-school  
4 education without the need for medical treatments if their parents declared a  
5 religious or personal belief exemption for such children. These exemptions allowed  
6 those children to attend a K-12 school education within the State of California  
7 without undergoing every single medical treatment on California's required list.

8 33. The Disneyland measles "outbreak" of 2014 caused an immediate and  
9 irrational response that likely led to the rushed drafting and quick passage of §  
10 120325 *et seq.* According to the Centers for Disease Control and Prevention, there  
11 were no deaths or serious adverse outcomes, and the outbreak was likely caused by  
12 a tourist visiting from the Philippines. Such an international tourist would not be  
13 subject to § 120325 *et seq.* in any case, nor did the outbreak have anything to do  
14 with schools, the United States' clearly enumerated right to refuse medical  
15 treatments, the fundamental right to parent, or the fundamental right to an  
16 education.

17 34. Section 120325 *et seq.* was signed into law by Governor Edmund G.  
18 Brown on June 30, 2015, even though the passage and signing was met with harsh  
19 criticism due to the bill's infringement of the state and federal constitutional rights  
20 of Californians.

21 35. Section 120325 *et seq.* went into effect on July 1, 2016, and has  
22 already affected school-aged children in California as of this 2016 school year, and  
23 continues to affect those registering for school on an ongoing basis.

24 36. Section 120325 *et seq.* essentially removes all exemptions to medical  
25 treatment requirements for a student's entry into K-12 schools in California, and  
26 also unlawfully restricts entry into child care centers, nurseries, private schools,  
27 development centers, and family day care homes, without such policy being  
28 tailored to the least restrictive means. Exemptions that had been in place since the

1 1960s are now obsolete by and through the enactment and enforcement of § 120325  
2 *et seq.*

3 37. Plaintiffs are residents of California who wish to attend, or have their  
4 child attend, K-12 public school education without having to comply with receiving  
5 each and every one of the now statutorily required medical treatments for admission  
6 and attendance within a public school in California, but are now prohibited from  
7 doing so as a direct result of Defendants' enactment and enforcement of § 120325  
8 *et seq.*

9 38. In fall of 2016, Plaintiff parents were denied or knew they would be  
10 denied the constitutionally afforded right to enroll their children in K-12 public  
11 school education due to their children not having received every single medical  
12 treatment on California's required list.

13 39. In fall of 2016, many other children hereby being represented by A  
14 Voice for Choice, Inc. were also denied access to a K-12 school education in  
15 California, due to such children not currently being in compliance with each and  
16 every one of the now statutorily required medical treatments for admission and  
17 attendance within a public school in California.

18 40. As a result of § 120325 *et seq.*, the Plaintiffs are now barred from their  
19 constitutional right to a K-12 school education unless they comply with receiving  
20 a long list of medical treatments. Otherwise, Plaintiffs are left only with the  
21 separate-but-unequal option of being segregated into home schooling.

22 41. Plaintiff's inability to receive a K-12 school education unless they  
23 agree to comply with receiving a long list of medical treatments has caused them  
24 significant hardship, including but not limited to the deprivation of rights  
25 guaranteed by the Fourteenth Amendment and severe humiliation, emotional  
26 distress, financial hardship, pain, suffering, psychological harm, and stigma. K-12  
27 schooling is an exceptionally important social and educational part of a developing  
28 child's life, and one guaranteed by the California Constitution. Each day that



1 Plaintiffs are denied their right to attend K-12 public school education, they suffer  
2 irreparable harm as a direct result of Defendants' violation of their rights under  
3 both the California Constitution and the United States Constitution.

4 42. If § 120325 *et seq.* and the related and resulting statutes are not  
5 enjoined and struck down as unconstitutional, Defendants will continue to enforce  
6 this unconstitutional law against Plaintiffs, as well as others similarly situated,  
7 thereby depriving them of their constitutional rights under the Fourteenth  
8 Amendment. The declaratory and injunctive relief sought by Plaintiffs, on the other  
9 hand, will require Defendants to cease enforcing the requirement of school-aged  
10 children to comply with receiving a long list of medical treatments in order to  
11 exercise their preexisting constitutional right to K-12 public school education.  
12 Through the continued enforcement of § 120325 *et seq.*, either the child Plaintiffs  
13 will be forced to give up their fundamental right to attend school because they wish  
14 to exercise their constitutional right to refuse medical treatment and bodily  
15 autonomy; or in the alternative, the child Plaintiffs will be forced to give up their  
16 constitutional right to refuse medical treatment because they wish to exercise their  
17 fundamental right to a public education. The relief sought will also require  
18 Defendants Edmund G. Brown, Jr. and Kamala Harris to recognize a parent's  
19 fundamental right to decide on what medications are put into their child's body.

20  
21 **CLAIMS FOR RELIEF**

22 **CLAIM ONE: DUE PROCESS**

23 43. Plaintiffs incorporate here by reference paragraphs 1 through 42,  
24 *supra*, as if fully set forth herein.

25 44. Section 120325 *et seq.* violates fundamental liberties that are  
26 protected by the Due Process Clause, both on its face and as applied to Plaintiffs.

27 45. Section 120325 *et seq.* infringes on both state and federal  
28 constitutional rights by denying children the opportunity to exercise their right

1 under the California Constitution to attend K-12 public school education unless  
2 they first give up their separate right under the United States Constitution to refuse  
3 medical treatments and control what is put into their bodies. Such infringements  
4 are antithetical to the United States Supreme Court holding that it is “intolerable  
5 that one constitutional right should have to be surrendered in order to assert  
6 another.” *Simmons v. U.S.*, 390 U.S. 377, 394 (1968).

7 46. Section 120325 *et seq.* unconstitutionally negates the right of parents  
8 to make important decisions in the upbringing of their own child, to refuse medical  
9 treatments for their children, and to specifically decide on what types of  
10 medications are put into the bodies of such children, or else risk their children not  
11 being able to receive an adequate education or participate in the social aspects and  
12 benefits of K-12 schooling in California, even though the government “may not  
13 deny a benefit to a person on a basis that infringes his constitutionally protected  
14 interests.” *Perry v. Sinderman*, 408 U.S. 593, 597 (1972). Moreover, the United  
15 States Supreme Court held that “the interest of parents in the care, custody, and  
16 control of their children—is perhaps the oldest of the fundamental liberty interests  
17 recognized by this Court,” and that the Due Process Clause protections of “the  
18 ‘liberty of parents and guardians’ includes the right ‘to direct the upbringing and  
19 education of children under their control.’” *Troxel v. Granville*, 530 U.S. 65 (2000).  
20 Furthermore, precedent from the early twentieth century must be synthesized with  
21 more recent Supreme Court cases, as that early precedent has been plainly  
22 distinguished and does not provide an exception for Defendants' ongoing conduct.

23  
24 **CLAIM TWO: EQUAL PROTECTION**

25 47. Plaintiffs incorporate here by reference paragraphs 1 through 46,  
26 *supra*, as if fully set forth herein.

27 48. Section 120325 *et seq.* violates the Equal Protection Clause of the  
28 Fourteenth Amendment, both on its face and as applied to Plaintiffs.



1           49. Section 120325 *et seq.* restricts the ability for children who have not  
2 received every single medical treatment under California’s required list to attend a  
3 K-12 school education. This unconstitutional condition creates different groups of  
4 people who are treated unequally under the law. The California Constitution affords  
5 the right to attend K-12 public school education to all individuals residing in  
6 California, and such right cannot be unequally granted to children who have  
7 received a certain number of vaccines while at the same time be withheld from  
8 other children whose parents have chosen not to force even one of California’s  
9 listed vaccines upon and into their child. Section 120325 *et seq.* unconstitutionally  
10 offers these other children a separate-but-unequal option to attend home schooling  
11 in lieu of a decision being made under one’s constitutionally protected rights to  
12 refuse medical treatments and limit any and all medical treatments from being  
13 injected into their bodies. Furthermore, California’s Fourth District Court of  
14 Appeal has clearly stated the position that it does not believe “that home teaching  
15 is the equivalent of classroom instruction.” *Phipps v. Saddleback Valley USD*, 204  
16 Cal.App.3d 1110, 1120 (1988).

17           50. Such home schooling options often place the child at an educational  
18 disadvantage, while also putting pressure on parents to pay for related services, hire  
19 private child care as other general child care is not allowed, and/or stay out of the  
20 workplace in order to assist the child during their educational development. Rights  
21 granted under the California Constitution should be protected for all groups of  
22 people residing in California, and not just those who have agreed to comply with a  
23 law that is unconstitutional on its face.

24  
25                           **CLAIM THREE: VIOLATION OF 42 U.S.C. § 1983**

26           51. Plaintiffs incorporate here by reference paragraphs 1 through 50,  
27 *supra*, as if fully set forth herein.

28





1 treatments before such child may exercise their right under the California  
2 Constitution to attend K-12 public school education, violates the Due Process and  
3 Equal Protection Clauses of the Fourteenth Amendment and 42 U.S.C. § 1983.

4 II. Plaintiffs respectfully request that this Court enter a preliminary and a  
5 permanent injunction enjoining enforcement or application of § 120325 *et seq.* and  
6 any other California law which requires a child to receive medical treatments before  
7 such child may exercise their right under the California Constitution to attend K-12  
8 public school education.

9 III. Plaintiffs respectfully request costs of suit, including reasonable  
10 attorneys' fees under 42 U.S.C. § 1988, and all further relief to which they may be  
11 justly entitled.

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DATED: November 21, 2016

**THE HAKALA LAW GROUP, P.C.**

By:   
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