

1 Gregory J. Glaser (SBN 226706)  
2 4399 Buckboard Drive, Box 423  
3 Copperopolis, CA 95228  
4 Ph. (925) 642-6651  
5 Fx. (209) 729-4557  
6 greg@gregglaser.com

7 Ray L. Flores II (SBN 233643)  
8 11622 El Camino Real Suite 100  
9 San Diego, CA 92130  
10 Ph. (858) 367-0397  
11 Fx. (888) 336-4037  
12 rayfloreslaw@gmail.com

13 Attorneys for Petitioners

14 **UNITED STATES DISTRICT COURT OF CALIFORNIA**  
15 **EASTERN DISTRICT - SACRAMENTO**

16 Joy Garner, individually and on behalf of The  
17 Control Group; Joy Elisse Garner, individually  
18 and as parent of J.S. and F.G.; Evan Glasco,  
19 individually and as parent of F.G.; Traci Music,  
20 individually and as parent of K.M. and J.S.;  
21 Michael Harris, individually and as parent of  
22 S.H.; Nicole Harris, individually and as parent of  
23 S.H.,

24 Petitioners,

25 v.

26 PRESIDENT OF THE UNITED STATES OF  
27 AMERICA, in his official capacity,

28 Respondent.

**Case No.: 2:20-CV-02470-WBS-JDP**

PETITIONERS' NOTICE OF MOTION AND  
MOTION TO VACATE ORDER AND  
JUDGMENT OF DISMISSAL; AND FOR  
DISQUALIFICATION OF JUDGE SHUBB

Date: February 22, 2022  
Time: 1:30 PM  
Courtroom: 5  
Judge: Honorable William B. Shubb

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NOTICE OF MOTION AND MOTION**

**TO RESPONDENT AND HIS ATTORNEY OF RECORD:** PLEASE TAKE NOTICE

that on February 22, 2022 at 1:30 PM or as soon thereafter as the matter may be heard in Courtroom 5 of the United States District Courthouse located at 501 I Street, Sacramento, California, Petitioners will move and hereby do move pursuant to Fed. R. Civ. Proc. § 60(b) and 28 USC § 455, to vacate the 2/23/21 judgment and order, and to disqualify the Honorable William B. Shubb on the grounds of financial conflict of interest.

This motion is based on the Notice of Motion and Motion, Memorandum of Points and Authorities, declaration of counsel, declaration of petitioner Joy Garner, all supporting papers on file in this action, and on any additional evidence and argument that may be allowed at a hearing of this motion.

**ATTORNEY FOR PETITIONERS**

<u>/s/ Gregory J. Glaser</u>	<u>January 5, 2022</u>
Gregory J. Glaser (SBN 226706)	Date
4399 Buckboard Drive, Box 423	
Copperopolis, CA 95228	
Ph. (925) 642-6651	
Fx. (209) 729-4557	
greg@gregglaser.com	

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. Summary of Motion**

3 Pursuant to Fed. R. Civ. Proc. § 60(b) and 28 USC § 455, Petitioners make this motion to  
4 vacate this Court’s 2/23/21 Judgment and Order of dismissal (Document #36-37), and to disqualify  
5 the Honorable William B. Shubb on the grounds of financial conflict of interest.

6 Here are the key facts:

- 7
- 8 • Recently produced 2019 financial disclosures show Judge Shubb owning  
9 approximately \$500,000 of pharmaceutical company stock with vaccine  
10 manufacturers and distributors shifting the burden to Judge Shubb to prove he did  
11 *not* own vaccine manufacturer/distributor stock while presiding over this vaccine  
12 case (from December 2020 to February 2021).
  - 13 • According to the CDC, all Covid-19 vaccines (including the vaccines purchased by  
14 Defendant from Judge Shubb’s stock company J&J) are property of the US  
15 government until they enter the recipient’s body.<sup>1</sup>
  - 16 • Petitioners only recently learned of Judge Shubb’s financial conflict of interest after  
17 the US Supreme Court published a year-end report (on December 31, 2021)  
18 analyzing the federal judiciary and calling out financial conflicts<sup>2</sup> in a Wall Street  
19 Journal article, putting Petitioners on notice of the applicable database of judicial  
20 financial disclosures *released to the public for the first time* October 15, 2021.<sup>3</sup>

21 \_\_\_\_\_  
22 <sup>1</sup> CDC (October 27, 2021). *CDC COVID-19 Vaccination Program Provider Requirements*  
23 *and Support*. <https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html> (retrieved  
24 on October 27, 2021).  
25 <https://web.archive.org/web/20211027025400/https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html> (“Vaccine remains U.S. government property until administered to the  
vaccination recipient.”)

26 <sup>2</sup> Roberts, J (December 31, 2021). 2021 Year-End Report on the Federal Judiciary. The US  
Supreme Court. <https://www.supremecourt.gov/publicinfo/year-end/2021year-endreport.pdf>.

27 <sup>3</sup> Lissner, M (October 15, 2021). Our Financial Disclosure Database is Now Available to All.  
28 Free Law Project. <https://free.law/2021/10/15/financial-disclosures-now-available-to-all-on-courtlistener>.

1 The judicial disqualification procedure is set forth in *Travelers Ins. Co. v. Liljeberg Enters.*,  
2 38 F.3d 1404, 1408 (5th Cir. 1994), stating “Rule 60(b)(6), in conjunction with § 455, does provide  
3 ‘a procedure whereby, in appropriate cases, a party may be relieved of a final judgment.’ *Liljeberg*  
4 *v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863, 100 L. Ed. 2d 855, 108 S. Ct. 2194 (1988).”

5 The applicable statute (28 U.S.C. § 455) and case law show that any financial interest in the  
6 company at issue (of which the judge holds stock) need *not* be an actual defendant in the litigation.  
7 Even if the government is the defendant in the litigation, the judge must still recuse himself “if the  
8 outcome of the proceeding could substantially affect the value of the securities.”

9 Here, the disqualification standard is easily met—the Verified Petition is based entirely on  
10 scientific evidence that vaccines (manufactured by companies included in Judge Shubb’s stock  
11 portfolio) are utterly destroying the health of the majority of Americans. For example, Petitioners’  
12 First Amended Verified Petition pled (“FAVP”, Document #21):

- 13 • ¶16. “Unlike the evidence presented herein, the government has never counted the  
14 victims of vaccination, and therefore has nothing with which to support any claim  
15 vaccines are doing less harm than good. Therefore, no branch of government can  
16 show a compelling or competing interest to that of the Petitioners here. The  
17 decimation of the American population is not a public good. Pharma profits must  
18 now take a back seat to the public good, as the survival of our Nation now hangs in  
19 the balance.”
- 20 • ¶¶1-31 (America’s immune system crisis is caused by mass vaccination, which is an  
21 imminent national security threat)
- 22 • ¶¶32. “Without a suspension of the National Childhood Vaccine Injury Act of 1986  
23 (NCVIA), which shifted civil liability for injuries caused by vaccines from  
24 pharmaceutical companies to the Federal government who recommends vaccines, the  
25 Federal government is at serious risk of bankruptcy. See e.g., 42 USCS § 300aa-22.”
- 26 • ¶75. “Pharma, and the governmental bodies that protect, cultivate, and expand its  
27 powers, have now outgrown the host. If these health injuries continue to devour the  
28

1 American people at the present rates, this Nation will collapse. Pharma can no longer  
2 be permitted to dictate public health policy.”

- 3 • ¶88. “Human health can be protected in government policies if the precautionary  
4 principle is used in the correct format that puts the onus of proof of harmlessness on  
5 the government and pharmaceutical industry, and not the general public.”
- 6 • ¶¶91-163 (causes of action). See especially ¶112, “*Jacobson* was not intended to  
7 become an open door to unlimited technological advancements so long as a  
8 pharmaceutical company attaches its behavior to the word “vaccine”. Even before  
9 Covid-19 vaccination, according to the trade publication PHRMA, there were over  
10 250 new vaccines in development. BigPharma is steadily increasing the quantity of  
11 vaccines mandated upon the public by government officials receiving so-called  
12 “donations” from BigPharma.” And see ¶132, “It is cruel and unusual when health  
13 officials use State powers to give pharmaceutical companies unmeasured control  
14 over individual posterity.” And see also ¶168, “The legislative and judicial branches  
15 have, thus far, primarily chosen to subjugate the health of the people of this Nation to  
16 the demands of the pharmaceutical/medical industrial complex.”

17 The Verified Petition is, and could not have been more damning to the pharmaceutical stock  
18 holdings of Judge Shubb. If Judge Shubb had ruled in favor of pausing mandatory vaccination in  
19 this case, or otherwise recognizing Petitioners’ evidence that liability-free vaccines line the pockets  
20 of Pharma and its stockholders to the detriment of this nation and its people, the value of his  
21 pharmaceutical portfolio could easily be expected to drop by *at least* tens of thousands of dollars in  
22 the short-term (i.e., overnight), and potentially drop by hundreds of thousands of dollars in the long-  
23 term. When Judge Shubb dismissed the allegations of the Verified Petition, mandatory vaccination  
24 continued unabated. Applying the available 2019 numbers to today, Judge Shubb’s stocks would  
25 have continued to rise steadily after his ruling - since February 2021, public records show his  
26 vaccine manufacturer stocks have gained tens of thousands of dollars. See Declaration of  
27 Petitioners’ counsel filed herewith.

28

1 Although 11 months have passed since Judge Shubb’s ruling, federal law is clear that this  
2 motion is timely,<sup>4</sup> because it is made *immediately* upon Petitioners’ discovery of this new  
3 information.<sup>5</sup>

4 **B. Grounds for Disqualification**

5 Petitioners recently learned that according to Judge Shubb’s 2019 financial disclosures,  
6 Judge Shubb had between \$300k to \$700k invested directly in stocks of vaccine manufacturers  
7 challenged in the case: Johnson & Johnson (\$100k-\$250k - manufacturer of multiple vaccines,  
8 including Covid-19); Abbot Labs (\$100k-\$250k -- manufacturer of an annual flu vaccine); Bristol-  
9 Myers Squibb (\$50k-\$100k – Covid-19 vaccine developer); and Proctor & Gamble (\$50k-\$100k –  
10 vaccine distributor). If these numbers were still applicable when Judge Shubb dismissed this case,  
11 then Judge Shubb’s vaccine manufacturer/distributor stock portfolio increased somewhere between  
12 \$44,850 and \$110,150 from the time of his Order dismissing this case (week beginning 2/22/21) to  
13 the present (1/4/21). (See Declaration of Petitioners’ Counsel confirming the stock holdings and  
14 Petitioners’ recent discovery of the information.)

15 The First-Amended Verified Petition in this case clearly alleged new scientific evidence that  
16 vaccines are utterly destroying the health of the majority of Americans, and that the President needs  
17 to enjoin vaccine mandates nationwide to stop vaccine manufacturers from ending our Nation. The  
18 First-Amended Verified Petition could not have been more damning to the pharmaceutical stock  
19 holdings of Judge Shubb.

20 In Judge Shubb’s defense, he has substantial and diversified holdings (millions of dollars in  
21 corporate stocks and various funds), but the law is clear that recusal is necessary where a District  
22 Court Judge holds *any* amount of stock directly in a company that is substantially affected by the  
23 outcome of the proceeding. 28 U.S.C.S. § 455 provides:

24  
25 \_\_\_\_\_  
26 <sup>4</sup> “A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1),  
27 (2), and (3) no more than a year after the entry of the judgment or order or the date of the  
28 proceeding.” USCS Fed Rules Civ Proc R 60.

<sup>5</sup> Judge Shubb’s financial disclosures were made public for the first time on October 15, 2021,  
as announced indirectly by the Federal Judiciary on December 31, 2021. See Declaration of  
Petitioners’ counsel in support of this motion.

1 (a) Any justice, judge, or magistrate [magistrate judge] of the United States shall  
2 disqualify himself in any proceeding in which his impartiality might reasonably  
be questioned.

3 (b) He shall also disqualify himself in the following circumstances...

4 (4) He knows that he, individually or as a fiduciary, or his spouse or minor  
5 child residing in his household, has a financial interest in the subject  
6 matter in controversy or in a party to the proceeding, or any other interest  
7 that could be substantially affected by the outcome of the proceeding.

8 ...  
9 (d)(4) "financial interest" means ownership of a legal or equitable interest,  
10 however small, or a relationship as director, adviser, or other active participant in  
11 the affairs of a party, except that:

12 (i) Ownership in a mutual or common investment fund that holds  
13 securities is not a "financial interest" in such securities unless the judge  
14 participates in the management of the fund;

15 ...  
16 (iv) Ownership of government securities is a "financial interest" in the  
17 issuer only if the outcome of the proceeding could substantially affect the  
18 value of the securities.

19 Case law doesn't require the judge's stock interest at issue to be an actual defendant in the  
20 litigation. Even if the government is the defendant in the litigation, the judge must still recuse  
21 himself "if the outcome of the proceeding could substantially affect the value of the securities." See  
22 e.g., *Shell Oil Co. v. United States*, 672 F.3d 1283, 42 Env'tl. L. Rep. 20059, 2012 U.S. App. LEXIS  
23 4742 (Fed. Cir. 2012) (Where trial judge discovered that judge's spouse owned stock in parent  
24 company of certain oil companies in action against government, and judge severed affected  
25 companies from action and entered judgment in favor of non-severed companies, recusal of judge  
26 was required from entire proceeding; because stock was not divested, recusal was mandatory and  
27 could not be waived, and trial judge was required to recuse judge from entire proceeding rather than  
28 severing affected companies). *United States v. Wolff*, 263 F. App'x 612, 613, 615 (9th Cir. 2008)  
(judge abused his discretion by failing to recuse in case where judge owned stock in "unindicted co-  
conspirators"; as the appellate alleged "the district judge was required to recuse himself because he  
owned stock in a company that was connected to the scheme").

See also, *Sollenbarger v. Mountain States Tel. & Tel. Co.*, 706 F. Supp. 776, 781 (D.N.M.  
1989),

"In cases where the judge has a financial interest within § 455(d)(4) in a non-  
party, the court examines how direct an effect the litigation before it will have on  
the interested non-party. For example, in *In re Placid Oil Co.*, 802 F.2d 783, 786

1 (5th Cir. 1986), plaintiff brought suit against 23 banks. The trial judge had a large  
 2 investment in a non-party bank; the financial interest definition is  
 3 satisfied....*Department of Energy v. Brimmer*, 673 F.2d 1287 (Temp. Emerg. Ct.  
 4 App. 1982), is similar to *Placid Oil*. Plaintiff energy company  
 5 in *Brimmer* challenged the validity of regulations written to wind up a Department  
 6 of Energy regulatory program. 673 F.2d at 1289-91. Judge Brimmer held stock in  
 7 energy companies who participated in the same program plaintiff did; thus, he had  
 8 a financial interest. TECA held that his interest in non-party corporations did not  
 9 equal "a financial interest in the subject matter of the litigation before him"  
 10 because "the judge does not have a *direct* economic or financial interest in the  
 11 outcome of the case, . . ." *Id.* at 1295 (emphasis added). The court of appeals  
 12 also held that his stock ownership did not constitute "any other interest" because  
 13 his rulings could at most have a slight effect, not a substantial one. *Id.*"

14 A helpful explanation of the law here is also provided in *Dominguez v. Gulf Coast Marine &*  
 15 *Assocs.*, 607 F.3d 1066, 1073-1074 (5th Cir. 2010)

16 "The district court maintains jurisdiction as to matters not involved in the appeal,  
 17 such as the merits of an action when appeal from a preliminary injunction is  
 18 taken, or in aid of the appeal, as by making clerical corrections." *Farmhand, Inc.*  
 19 *v. Anel Eng'g Indus., Inc.*, 693 F.2d 1140, 1145 (5th Cir. 1982). Consequently, it  
 20 was still appropriate for Judge Clark to recuse himself, insofar as he retained  
 21 certain residual jurisdiction over this case. Also, his recusal could be viewed as  
 22 being in aid of this appeal, as it brings to our attention serious  
 23 questions concerning the propriety of the dismissal that is now on appeal.

24 Having confirmed our jurisdiction, we now address the effect of Judge Clark's  
 25 ownership of Schlumberger Limited stock on this appeal. Plaintiffs ask us to grant  
 26 them leave to file a motion with the district court pursuant to Federal Rule of  
 27 Civil Procedure 60(b), which has been used previously as a means for vacating  
 28 judgments issued by judges who should have recused themselves. *See Liljeberg v.*  
*Health Servs. Acquisition Corp.*, 486 U.S. 847, 863, 108 S. Ct. 2194, 100 L. Ed.  
 2d 855 (1988)....

29 However, plaintiffs' failure to file a Rule 60(b) motion with the district court does  
 30 not slip a blindfold over our eyes, letting us ignore that the judgment we are  
 31 reviewing was entered by a judge subject to recusal. The statute governing the  
 32 recusal of Judge Clark in this case is 28 U.S.C. § 455, and the Supreme Court has  
 33 explained that since § 455 "neither prescribes nor prohibits any particular remedy"  
 34 for recusal violations, "Congress has wisely delegated to the judiciary the task of  
 35 fashioning the remedies that will best serve the purpose of the  
 36 legislation." *Liljeberg*, 486 U.S. at 862. Courts have previously exercised this  
 37 authority on appeal, even when remedies for recusal violations were not first  
 38 sought in the district court. For example, in *Davis v. Xerox*, the Ninth Circuit  
 39 considered whether rulings made by a district judge subject to recusal had to be  
 40 vacated, despite the fact the issue was raised for the first time on appeal. 811 F.2d  
 1293, 1296 (9th Cir. 1987) ("Only on appeal did [the plaintiff] obtain copies of

1 the first judge's reports and bring them to the attention of a court. [His] objection  
2 is still timely."). Similarly, in *Potashnick v. Port City Construction Co.*, we  
3 remanded a case for determination of whether a judge should have recused  
himself, after attorneys discovered grounds for the judge's recusal following the  
conclusion of a trial. 609 F.2d 1101, 1106, 1115 (5th Cir. 1980).

4 To the extent that Judge Shubb is still invested in vaccine manufacturer stock, his ability to  
5 be impartial and acknowledge what is destroying the health of Americans is severely compromised.

6 **CONCLUSION**

7 An impartial judge in an impartial Court is necessary to examine the evidence here. The trap  
8 door the Court sprung was premature and suspect. For the foregoing reasons, Petitioners  
9 respectfully move this Court to vacate the order and judgment of dismissal, and to disqualify the  
10 Honorable William B. Shubb as the presiding judge in this case.

11 Dated: January 5, 2022

12 Respectfully submitted,

13 /s/ Gregory J. Glaser

14 Gregory J. Glaser (SBN 226706)

15 4399 Buckboard Drive, Box 423

16 Copperopolis, CA 95228

17 Ph: (925) 642-6651

18 Fx. (209) 729-4557

19 greg@gregglaser.com

20 **ATTORNEY FOR PETITIONERS**