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Carlton E. Wessel



August 25, 2023

Honorable Michael J. Truncale  
The Jack Brooks Federal Building and United States Courthouse  
300 Willow Street  
Beaumont, TX 77701

Re: *United States ex rel. Jackson v. Ventavia Research Group, LLC, et al.*, No. 1:21-cv-00008-MJT  
(E.D. Tex.)

Dear Judge Truncale:

Defendant Pfizer Inc. ("Pfizer") submits this letter to bring certain matters to the Court's attention in advance of the scheduling conference on August 28, 2023, and the current filing deadline for Relator's Proposed Second Amended Complaint (ECF 97-1) on August 31, 2023.

From the start of this case, Relator, Brook Jackson, and her counsel, Robert Barnes, have lodged baseless accusations, not only at Defendants, but also at this Court, in a manner designed to undermine public confidence in the federal judiciary. On December 13, 2022, the Court held a status conference where it reminded all counsel of their obligations under the ethical rules, and of the importance of preserving the integrity of the judicial process. At that conference, all parties represented to this Court that they were aware of no evidence indicating that the Court's impartiality in these proceedings might reasonably be questioned. Yet Relator and her counsel continue to make public statements doing exactly that. On a similar note, Relator and her counsel continue to make false allegations in their written submissions to the Court designed to undermine confidence in the executive branch and the U.S. public health system itself. The Proposed Second Amended Complaint continues this pattern and, for reasons explained in this letter, many of the factual assertions in their proposed pleading raise serious concerns under Federal Rule of Civil Procedure 11. It would be improper for Relator to file the Proposed Second Amended Complaint without eliminating these misrepresentations.

Section I of this letter details Relator's continuing baseless allegations that the Court is biased. Section II details Relator's false assertions that the both the judiciary and the executive branch are motivated by partisan politics in this case, not the law and the facts. Finally, Section III identifies numerous false and unsupportable factual contentions in the Proposed Second Amended Complaint that fall far short of every lawyer's responsibilities under the Federal Rules. In light of the multitude of false assertions by Relator and her counsel, and given the procedural posture of this litigation, Pfizer feels compelled to bring these issues to the Court's attention now.



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## I. Continued False Allegations By Relator And Her Counsel Designed To Undermine Confidence In The Federal Judiciary

On March 31, 2023, the Court dismissed Relator's claims in a thoughtful and well-reasoned opinion, which was firmly backed by Fifth Circuit precedent as well as a Statement of Interest from the Government supporting dismissal. Nevertheless, Relator immediately took to Twitter to accuse the Court of, among other things, "a despicable and heinous betrayal of justice," "a blatant example of corruption, incompetence and cowardice," and "a declaration that the powerful are above the law."<sup>1</sup> She also remarked: "This was our practice run; a hope that America still had a fair & just judiciary. It does not."<sup>2</sup>

Likewise, immediately after dismissal, Relator's counsel, Mr. Barnes, took to the airwaves to accuse the Court and its laws clerks of bias:

- "My guess, and it's just speculation, the Judge wrote an opinion more consistent with his oral argument that denied the motion to dismiss, and then midway through, got- got cold feet, decided to play the Tin Man from the *Wizard of Oz*, and was too scared . . . to uh, take on the U.S. government and Pfizer combined in the biggest public health scandal of trillion dollars of damages . . . ."<sup>3</sup>
- "One sign you know you've won a case is when the core of your argument is never even addressed by the Judge. It's a sign the Judge knows, or the clerk who probably wrote half of this Opinion and can't wait to work for Big Pharma five years from now, probably. Uh, that's where there's institutional integrity issues . . . ."<sup>4</sup>
- "[T]his ruling ignored the biggest argument being made . . . the *sine qua non* of materiality under the False Claims Act . . . is what was the essence of the bargain. Notably, the Judge never talks about that. And there's a reason. It's because the Judge knows he is wrong. The Judge knows his Opinion is wrong. The uh, uh, that's why I call it a cowardly decision. Uh, it's a decision that the Judge's own failure to deal with the leading argument by us, it tells you the Judge knows he can't even address the argument. He can't even answer that argument . . . ."<sup>5</sup>
- "But in my view, it reflects cowardice. And it reflects a cowardice that is an- a flaw in our federal judiciary that is reflective of their life experience being too limited. And ultimately, this comes back

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<sup>1</sup> ECF 103-1 at 2 (Attachment 1).

<sup>2</sup> ECF 103-2 at 2 (Attachment 2).

<sup>3</sup> Viva Frei, *Episode 154*, at 1:22:53-1:23:20, Apr. 2, 2023, <https://tinyurl.com/mrynr54a>.

<sup>4</sup> *Id.* at 1:25:34-1:25:52.

<sup>5</sup> *Id.* at 1:26:28-1:27:15.



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to the politicians. The Senate and the Federalist Society-types that gatekeep who gets appointed on the Right to the bench keep appointing corporate loyalists, keep appointing government loyalists to the bench who just defer to authority, just as this Judge did. He deferred to Pfizer. He deferred to the FDA. He deferred to the Defense Department rather than deferring to the American People and the rule of law and the Constitution. And that's where I disagree with him.”<sup>6</sup>

## II. False Assertions Of Political Influence In These Proceedings

After the Court granted Relator's motion to amend her complaint on August 9, 2023, Mr. Barnes then pivoted to claiming that the Court's prior dismissal order was the product of Democratic political influence. On a recent podcast, Mr. Barnes characterized the Court's August 9, 2023 Order as follows:

- “It didn't feel like it was written by the same Court. It's like somewhere along the way the Court had shifted perceptions of the case, which I attributed that to potentially being a clerk's influence 'cause so many of the court clerks these days are, are even if they're working for a Republican appointee, they're, they're very pro-vaccine and many of 'em are liberal Democrats honestly. Uh, pretending otherwise in order to get a pre- premier clerkship 'cause of how much money that cash, you can cash that in at a big corporate law firm.”<sup>7</sup>

This is not the first time Relator's counsel has claimed that partisan politics instead of the law influenced these proceedings. When the Department of Justice filed a Statement of Interest in Support of Dismissal (ECF 70 at 12), Relator responded that the “unusual pleading” was the work of “the Biden White House” (ECF 75 at 1). But as Relator's counsel knows, both the Biden and Trump Administrations have roundly rejected Relator's false claims that the vaccine is unsafe and ineffective. The undisputed timeline (based primarily on Relator's own allegations) shows the following nonpartisan actions by both administrations:

- May 15, 2020 – Government launches Operation Warp Speed designed to accelerate the development, acquisition, and distribution of COVID-19 medical countermeasures, with a particular focus on vaccines (ECF 17, ¶¶ 54-56) (Trump Administration);
- July 21, 2020 – Defense Department finalizes agreement to purchase first 100M doses of Pfizer's vaccine, which was in development (ECF 17-1 at 303-37) (Trump Administration);
- September 25, 2020 – Relator calls the FDA's hotline to report the concerns that form the basis of her complaint and then subsequently speaks to FDA for several hours (ECF 17, ¶¶ 262, 266) (Trump Administration);

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<sup>6</sup> *Id.* at 1:33:00-1:33:40.

<sup>7</sup> Viva Frei, *Episode 173*, at 43:06-43:30, Aug. 13, 2023, <https://tinyurl.com/3fw5k6y7>.



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- December 11, 2020 – After speaking to Relator for hours in September 2020 and having nearly two months to consider Relator’s allegations, FDA grants the initial Emergency Use Authorization (“EUA”) for Pfizer’s vaccine in individuals ages 16+ (ECF 17 ¶¶ 12) (Trump Administration);
- December 14, 2020 – Relator serves her “voluntary pre-filing disclosure statement” on the Defense Department (ECF 17 ¶¶ 38; ECF 37-5) (Trump Administration);
- December 31, 2020 – Pfizer issues the first invoice under the Other Transaction Agreement (ECF 37 at 17-18) (Trump Administration);
- January 8, 2021 – Relator files her Original Complaint in this case, under seal, in the U.S. District Court for the Eastern District of Texas (ECF 17 ¶¶ 39) (Trump Administration);
- January 8, 2021 – Relator submits her “original disclosure statement” and “substantially all material evidence and information” to the Justice Department in Washington (ECF 17 ¶¶ 39) (Trump Administration);
- August 23, 2021 – FDA grants full approval of Pfizer’s vaccine for use in individuals ages 16+ (ECF 17 ¶¶ 12) (Biden Administration);
- November 15, 2021 – FDA responds to Relator’s allegations in the *British Medical Journal* by expressing the agency’s “full confidence in the data” supporting Pfizer’s vaccine (ECF 37 at 19-20) (Biden Administration);
- January 18, 2022 – Justice Department declines to intervene in Relator’s lawsuit (ECF 13) (Biden Administration); and
- October 4, 2022 – Justice Department files Statement of Interest Supporting Dismissal of this case (ECF 70) (Biden Administration).

As the above facts show, the Government’s approval, payment, and support for the safety and efficacy of the COVID-19 vaccine has been consistent during both the Biden and Trump Administrations. Both administrations have rejected Relator’s false assertions that the vaccine is unsafe and ineffective. And most significantly for this case, both administrations have continued to contract for, approve, and pay for the vaccine with full knowledge of Relator’s allegations. Thus, Relator’s claims of a partisan political conspiracy are simply false.



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### III. False And Unsupportable Contentions In The Proposed Second Amended Complaint

In light of the foregoing, it comes as no surprise that Relator's Proposed Second Amended Complaint is replete with factual contentions that are manifestly false. By way of example only, her proposed complaint includes the following assertions for which there is no factual or evidentiary basis:

- "Pfizer knew there were effective alternatives available that precluded Pfizer from ever obtaining authorization for their product." (ECF 97-1, ¶ 15.)
- "Pfizer delivered a dangerous, ineffective, gene therapy that didn't prevent anything when Pfizer knew there were effective alternatives available." (ECF 97-1, ¶ 16.)
- "Pfizer lied by claiming no alternative effective treatments existed, but hid information from the government concerning it." (ECF 97-1, ¶¶ 276, 285, 301.)
- "Pfizer knew accurate clinical testing data would reveal a dangerous, ineffective product that was not a vaccine and didn't prevent COVID-19." (ECF 97-1, ¶ 238.)
- "Worse, what Pfizer delivered was a historically dangerous, ineffective, gene therapy that didn't prevent COVID-19 at all, but would cause the deaths and disabilities of millions, and they knew it." (ECF 97-1, ¶ 276.)
- "Pfizer won billions of taxpayer money, and then their product caused the deaths and disabilities of millions." (ECF 97-1, ¶ 302.)

Relator and her counsel have pled no facts that would support these baseless claims. Their proposed pleading does not, for example, identify the "effective alternative treatments" that allegedly existed when Pfizer sought an EUA for its COVID-19 vaccine back in 2020 in the middle of a global pandemic. If there had been effective alternatives, President Trump never would have launched Operation Warp Speed to "accelerate the development, manufacturing, and distribution of COVID-19 vaccines, therapeutics, and diagnostics."<sup>8</sup> Nor does Relator's proposed pleading identify the "information" about "effective alternatives" that Pfizer allegedly "hid from the government." Nothing of the sort ever happened because no such alternatives existed.

To the extent Relator's counsel are suggesting that ivermectin was an effective alternative, they are peddling in dangerous misinformation. The FDA website today includes an entire page devoted to

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<sup>8</sup> U.S. Dept. of Defense, *Trump Administration Announces Framework and Leadership for Operation Warp Speed*, May 15, 2020, <https://tinyurl.com/45u984wx> ("President Trump has refused to accept business-as-usual timelines for vaccines and other essential tools, and instead has insisted that America, and the world, needs answers faster.").



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explaining, “Why You Should Not Use Ivermectin To Treat Or Prevent COVID-19.”<sup>9</sup> That website states: “The FDA has not authorized or approved ivermectin for the treatment or prevention of COVID-19 in people or animals. Ivermectin has not been shown to be safe or effective for these indications. There’s a lot of misinformation around, and you may have heard that it’s okay to take large doses of ivermectin. It is not okay.” (Emphasis in original.)

There is similarly no support for Relator’s contention that Pfizer’s vaccine “didn’t prevent COVID-19 at all” and that the vaccine “caused the deaths and disabilities of millions.” Relator could never provide substantiation for these outrageous claims; medical experts and regulatory authorities the world over have concluded, based on the totality of the scientific evidence, that the benefits of the vaccine outweigh the potential risks.<sup>10</sup> Relator and her counsel may believe the opposite, but that belief is not based on facts or evidence.

Finally, the allegation that Pfizer’s product is “not a vaccine” but rather a “gene therapy” is just wrong. Relator again provides no support for this assertion and, like her other claims, it has been widely debunked.<sup>11</sup>

The misrepresentations in the Proposed Second Amended Complaint go far beyond the normal back-and-forth of the adversarial process. Relator’s counsel may be entitled to spew nonsense and conspiracies on social media. However, they are held to a higher standard when they assert their claims in federal court. By signing the Proposed Second Amended Complaint and presenting it to the Court, Relator’s counsel have certified that “to the best of [their] knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.” Fed. R. Civ. P. 11(b)(3). As Relator and her counsel are well aware, no amount of investigation will uncover “effective alternatives” to Pfizer’s vaccine that existed back in 2020. No amount of investigation will identify “millions” of deaths and disabilities “caused” by Pfizer’s vaccine. And no amount of investigation will convert Pfizer’s vaccine into a “gene therapy.” If, despite the notice provided by this letter, Relator’s counsel elects to file the Proposed Second Amended Complaint without removing the blatant falsehoods

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<sup>9</sup> U.S. Food & Drug Administration, *Why You Should Not Use Ivermectin To Treat Or Prevent COVID-19*, <https://tinyurl.com/44aexjvf>.

<sup>10</sup> See, e.g., World Health Organization, *Side Effects of COVID-19 Vaccines*, <https://tinyurl.com/27nu8r89> (“COVID-19 vaccines are safe, and getting vaccinated will help protect you against developing severe COVID-19 disease and dying from COVID-19.”).

<sup>11</sup> See, e.g., Genomics Education Programme, *Why mRNA Vaccines Aren’t Gene Therapies*, June 11, 2021, <https://tinyurl.com/3k6azxbs>; Angelo Fichera, *No, COVID-19 Vaccines Are Not Gene Therapies*, THE ASSOCIATED PRESS, Dec. 23, 2022, <https://tinyurl.com/mw2eeb69>.



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contained within it, Pfizer will be well within its rights to seek sanctions under Rule 11. See Fed. R. Civ. P. 11(c).

#### **IV. Conclusion**

Relator and her counsel continue to show little regard for the integrity of these proceedings. Her argument that politics has influenced the judicial and the executive branch decisions in this case is simply belied by the facts. Moreover, her unsubstantiated allegations that the Court is making decisions for political reasons is highly inappropriate and clearly designed to undermine public confidence in the federal judiciary. See, e.g., Texas Rule of Professional Conduct 8.02 (“A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of the judge[.]”). And the outlandish factual contentions in Relator’s Proposed Second Amended Complaint raise serious concerns under Rule 11. Pfizer respectfully brings these issues to the Court’s attention in advance of the upcoming scheduling conference.

Sincerely,

Carlton E. Wessel

cc: All Counsel of Record (Via E-Mail)

# ATTACHMENT 1





**Brook Jackson**    
@IamBrookJackson

...

I filed this case on behalf of the American people because our tax dollars were used to fund Pfizer's killer shot. Now, I must apologize to the world on behalf of the United States of America. [@pfizer](#) [@VRG\\_FortWorth](#) [@ICONplc](#) It's not over! By a long shot. [#forthevictims](#)



**Robert Barnes**  @barnes\_law · Mar 31

The court requires we appeal to hold Pfizer accountable in the @IamBrookJackson case, and we will be doing precisely that. [#PfizerLiedPeopleDied](#)

4:43 PM · Mar 31, 2023 · 116.1K Views



**Brook Jackson**    
@IamBrookJackson

...

The dismissal of Pfizer's case is a despicable & heinous betrayal of justice, a slap in the face to vaccine injured and whistleblowers, a blatant example of corruption, incompetence and cowardice, a declaration that the powerful are above the law... that freaking ends today!

12:38 AM · Apr 1, 2023 · 16.8K Views

# ATTACHMENT 2



**Brook Jackson**    
@IamBrookJackson



More than an appeal is forthcoming! Think back to what was known about DOD/Pfizer/FDA/CDC/NIH when this case was filed 814 days ago and what we know today. This was our practice run; a hope that America still had a fair & just judiciary. It does not.



**Warner Mendenhall**  @MendenhallFirm · Mar 31

Thanks Brook Jackson for your courage. An appeal is forthcoming.  
@IamBrookJackson

12:38 AM · Apr 1, 2023 · 78.4K Views