No. 26-438

In the Supreme Court of the United States

JOSEPH MILLER, ET AL.,
Petitioners,
v.
JAMES V. MCDONALD, COMMISSIONER, NEW YORK STATE DEPARTMENT OF HEALTH, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE BUCKEYE INSTITUTE AS AMICUS CURIAE SUPPORTING PETITIONERS

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QUESTIONS PRESENTED

1. Whether, as applied to the Amish Petitioners, New York's compulsion of permanent acts that are inconsistent with the religious beliefs and practices parents wish to instill in their children violates the Free Exercise Clause under *Mahmoud*.

2. Whether, as applied to the Amish Petitioners, New York's refusal to allow religious exemptions to a law that allows secular exemptions and other comparable secular activity violates the Free Exercise Clause.

3. Whether *Smith* should be reconsidered.

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INTEREST OF AMICUS CURIAE[1]

The Buckeye Institute was founded in 1989 as an independent research and educational institution—a think tank—to formulate and promote free-market policy in the states. The Buckeye Institute accomplishes its mission by performing timely and reliable research on key issues, compiling and synthesizing data, formulating free-market policies, and marketing those policy solutions for implementation in Ohio and replication across the country. The Buckeye Institute also files lawsuits and submits amicus briefs to fulfill its mission. The Buckeye Institute is a nonpartisan, nonprofit, tax-exempt organization, as defined by I.R.C. section 501(c)(3).

The Buckeye Institute works to restrain governmental overreach at all levels. It has opposed government vaccine mandates that excessively derogate liberty interests the Constitution protects. It has also defended the First Amendment rights of parents and religious adherents when the State conditions a public benefit on abandoning a sincerely held belief.

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[1] As required by Supreme Court Rule 37.6, no counsel for any party authored this brief in whole or in part and no entity or person, aside from amicus curiae made any monetary contribution toward the preparation or submission of this brief. Counsel timely provided the notice required by Rule 37.2.

SUMMARY OF THE ARGUMENT

The Second Circuit built its decision on the shaky foundation of a common, overbroad reading of *Jacobson* v. *Massachusetts*, 197 U.S. 11 (1905). This Court has long recognized that a right to bodily integrity exists under the Constitution. Yet, when the Court was confronted with a challenge to vaccine requirements in *Jacobson*, the Court seemingly approved of almost any restriction on the right. Or at least, that is how lower courts have interpreted *Jacobson*.

The reason for such confusion is *Jacobson's* confusing analysis. On one hand, bodily integrity is a fundamental right under the Constitution. On the other hand, the police powers justify restricting it—at least during an epidemic. *Jacobson's* uncertain analysis has resulted in lower courts giving extreme deference to legislative actions regarding "public health"—even if the actions infringe on fundamental rights and there is no other legal recourse.

This case, while not a direct challenge to *Jacobson*, relies on a broad interpretation to reach the result below. As the Court considers the issues raised, it should keep in mind that *Jacobson* was never meant to allow the government to mandate any and all childhood vaccinations without a careful review of whether the government has a compelling interest in requiring the specific vaccines for the specific mandated recipients. The government is not the all-knowing purveyor of truth and should not be given deferential treatment when it wants to infringe on individual rights. The Court should grant the petition and include in its analysis that the government must

demonstrate the underlying need for its vaccine mandates. For too long governments have been given a free pass in demanding everyone comply with broader and broader vaccine mandates. And *if* the government provides an adequate rationale for such mandates—based on evidence rather than an ipse dixit justification—then it must provide a religious exemption to a valid mandate.

ARGUMENT

I. Introduction

"Perhaps Mother Nature, by delivering a measles outbreak in New York's Amish community coincident with this case returning to the Supreme Court, is her not-so-subtle hint," said Dr. Howard Zucker, who was New York's health commissioner when the State eliminated religious exemptions. Joseph Goldstein, *Amish Families Pushed to Undo a Vaccine Law. Then Measles Arrived,* N.Y. Times (Oct. 20, 2026), https://www.nytimes.com/2026/10/20/nyregion/measles-amish-school-vaccine-requirement.html. This statement smacks of religious bigotry, not a sympathetic concern to protect Amish children. And bigotry can never satisfy the rational basis test.

The Second Circuit gives scant credence to the Amish Community's religious objection to New York's vaccine mandate because "the government is generally free to place incidental burdens on religious exercise so long as it does so pursuant to a neutral policy that is generally applicable." Pet. App. 10a (quoting *Mahmoud* v. *Taylor,* 606 U.S. 522, 564 (2025)). Petitioners well address the religious liberty aspect of this case. But before getting there, the Court

should examine the very foundation of the vaccine mandate. It is time that foundation be examined to fully evaluate the issues now before the Court.

The Second Circuit acknowledged that New York's vaccine mandate exempts a secular category of students while refusing to accommodate religious students. Pet. App. 15a. It concluded that this disparity does not matter. Because "[r]eligious exemptions increase 'the risk of transmission of vaccine-preventable diseases," the court reasoned, "religious objectors . . . detract[ ] from" the State's interests. Pet. App. 16a. It then held that *Mahmoud* v. *Taylor,* 606 U.S. 522 (2025), is inapposite here because a vaccination rule "does not regulate what children are taught, does not require them to affirm any belief, does not expose them to state-selected instruction contrary to their parents' faith, and does not enlist school officials to displace parental religious formation." Pet. App. 22a. The Second Circuit below also relied on *Jacobson* v. *Massachusetts*, 197 U.S. 11 (1905), to assert that "neutral and generally applicable immunization laws in the face of free exercise challenges" are valid. Pet. App. 10a–11a.

Those are the holdings this Court is asked to review. They are possible only if *Jacobson* and its progeny still license special deference for such health edicts to begin with. That deference is misplaced.

Jacobson has undermined not only specific cases but also liberty and police power jurisprudence generally. *Jacobson* was decided when the country was in the throes of a smallpox epidemic. Decisions made under the epidemic induced anxiety and fear of the unknown often age poorly. And relying on such

decisions is problematic. In its simplest form, *Jacobson* upheld a five-dollar fine for failure to get a smallpox vaccination. Unfortunately, *Jacobson* has been read much more broadly to justify many mandated vaccinations, with little or no legal scrutiny. "Because I said so," works for moms demanding kids eat their vegetables, but it should not be so for governments requiring injections against your will. The Constitution requires something more.

When a case has caused as much confusion and misapplication as *Jacobson*, there comes a time for the Court to abandon the case and set forth foundational principles consistent with modern jurisprudence and the Constitution. This case presents that opportunity in a calm and dispassionate atmosphere.

II. The Smallpox Epidemic and the *Jacobson*-Endorsed Edict

For hundreds of years, "smallpox devastated mankind." Stefan Riedel, *Edward Jenner and the history of smallpox and vaccination*, 18 Baylor U. Med. Ctr. Procs. 21, 21 (2005). While the disease had temporarily subsided in the United States during the 1800s, by 1901, an epidemic spread to Northern States—and was particularly widespread in Boston. Bernard Brabin, *An Analysis of the United States and United Kingdom Smallpox Epidemics (1901–5) – The Special Relationship that Tested Public Health Strategies for Disease Control*, 64 Med. Hist. 1, 8 (2020). The reemergence of smallpox unsurprisingly frightened the populace—and judges are part of the populace. States reacted by passing vaccination laws, some requiring vaccination to attend public school and others fining anyone who failed to get vaccinated. See

generally Josh Blackman, *The Irrepressible Myth of* Jacobson v. Massachusetts, 70 Buff. L. Rev. 131, 155 (2022) (*Irrepressible Myth*). But "despite all of these draconian measures, the states did not purport to have the power to vaccinate people forcibly." *Id.* Henning Jacobson refused to get vaccinated for medical reasons (i.e., adverse reactions to previous vaccine shots) and contested Massachusetts' five-dollar fine on constitutional grounds. The courts were unsympathetic, and eventually this Court rejected his arguments.

But *Jacobson* is not a model of decisional clarity. The decision might be viewed as a series of "on the one hand this, but on the other hand that" meanderings. Although the Court recognized the "liberty which the Constitution of the United States secures to every person," *Jacobson*, 197 U.S. at 25, it mostly justified the State's deprivation of such liberty, subject only to some unclear judicial review standard. Even though the Constitution protects liberty interests, the Court reasoned that the States have police powers and authority to "enact quarantine laws and 'health laws of every description.'" *Id.* And the Court further reasoned, "the police power . . . embrace[s] . . . such reasonable regulation established directly by legislative enactment as will protect the public health and the public safety." *Id.*

But on the other hand, the Court explains, the State cannot "contravene the Constitution . . . [or] infringe any right granted or secured by that instrument." *Id.* Then, back to the police power—"the liberty secured by the Constitution . . . does not import an absolute right in each person to be, at all

times and in all circumstances wholly freed from restraint." *Id.* at 26. The Court noted that it "has more than once recognized it as a fundamental principle that 'persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the state.'" *Id.* The Court emphasized the point by declaring liberty subservient to "reasonable" government decisions:

> The possession and enjoyment of all rights are subject to such reasonable conditions as may be *deemed* by the governing authority of the country essential to the safety, health, peace, good order, and morals of the community. Even liberty itself, the *greatest of all rights*, is not unrestricted license to act according to one's own will.

Id. at 26–27 (emphasis added) (quoting *Crowley* v. *Christensen*, 137 U.S. 86, 89 (1890)). Indeed, the Court argues, the town inhabitants could be "required" to be vaccinated "when, in the opinion of the board of health, that was necessary for the public health or the public safety." *Id.* at 27 (emphasis added). Yet, on the other hand, communities have a right to protect themselves against an epidemic, and courts would "usurp" another branch of government's authority by declaring its chosen "mode" of defending itself as "arbitrary, and not justified by the necessities of the case." *Id.* at 28.

The Court then explained that, indeed, there is a "sphere within which the individual may assert the supremacy of his own will and rightfully dispute the authority of any human government." *Id.* at 29.

But on the other hand,

> it is equally true that in every well ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand.

Id. But back on the other hand, or perhaps both hands, the judiciary can review such actions

> when that which the legislature has done comes within the rule that, if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.

Id. at 31. But on another hand—a third (or fourth?) hand—apparently a "common belief" is all that is necessary to require vaccination:

> A common belief, like common knowledge, does not require evidence to establish its existence, but may be acted upon without proof by the legislature and the courts. . . . The fact that the belief is not universal is not controlling, for there

> is scarcely any belief that is accepted by everyone. The possibility that the belief may be wrong, and that science may yet show it to be wrong, is not conclusive; for the legislature has the right to pass laws which, according to the common belief of the people, are adapted to prevent the spread of contagious diseases . . . . [W]hat the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does in fact or not.

Id. at 35 (first alteration in original) (quoting *Viemeister* v. *White*, 179 N.Y. 235, 240–41 (1904)). So much for science and evidence.

While the Court's affirmation of the police power has been viewed expansively, *Jacobson's* holding was quite narrow: The Massachusetts law, which imposed a $5.00 fine—but did not mandate vaccination—did not violate the Constitution. "The imposition on Mr. Jacobson's claimed right to bodily integrity, thus, was avoidable and relatively modest." *Roman Cath. Diocese of Brooklyn* v. *Cuomo*, 592 U.S. 14, 24 (2020) (Gorsuch, J., concurring).

The burden here is neither. New York punished the Amish with fines unless they abandon their deeply held beliefs: They can either capitulate to the vaccines or pull their children out of school—away from their social and spiritual development community. Unlike *Jacobson*, which concerned a single smallpox inoculation imposed on adults during an epidemic that was confined to city limits, New York conditions K–12 enrollment on immunization against about ten

diseases—through multi-dose childhood series and later boosters. N.Y. Pub. Health Law § 2164; *2026–27 School Year New York State Immunization Requirements for School Entrance/Attendance,* N.Y. State Dep't of Health (October 19, 2026), https://www.health.ny.gov/publications/2370.pdf. A decision about one shot in a citywide outbreak does not speak to a standing school-exclusion regime built on a full pediatric schedule plus adolescent boosters.

III. Subsequent reliance on *Jacobson* demonstrates the need for the Court to correct the lower courts' overly broad interpretation of *Jacobson*.

> *"Three generations of imbeciles are enough." Buck* v. *Bell*, 274 U.S. 200, 207 (1927).

Any case that lays the foundation for an anti-precedent becomes suspect itself. "*Jacobson* survives as the lodestar case for the government's use of public health measures, and even draconian ones, in times of crisis." Daniel B. Rodriguez, *Good Governing: The Police Power in the American States* 161 (2024).

One of the more infamous Supreme Court decisions, *Buck* v. *Bell*, a case upholding Virginia's authority to forcibly sterilize people, relied almost exclusively on *Jacobson*.

> It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains

> compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.

Buck, 274 U.S. at 207 (citing *Jacobson*, 197 U.S. 11).

The *Buck* decision was not issued in a vacuum. Much like the *Jacobson* vaccination case, it was issued in a societal environment that sanctioned and even encouraged eugenics via sterilization. "When the Court heard *Buck*, the eugenics wave had swept the country as a full-fledged social movement. The Supreme Court Justices who decided *Buck* were among those societal elites most influenced by these 'progressive' ideas . . . ." Samantha C. Smith, Buck *As (Anti)canon: The Misuse of Eugenics Rhetoric in Selective-Abortion Jurisprudence and the Dangers for Tort Law*, 73 Am. U. L. Rev. 449, 458 (2023).

In *Buck*, the Court allowed Virginia to forcibly sterilize Carrie Buck and avoid the burden she could possibly place on society because the State "was responsible for promoting 'the welfare of society' and protecting society from 'being swamped with incompetence.'" *Id.* "*Buck* succeeded as the eugenicists' test case, and over thirty states ended up with sterilization laws on their books based on the model law Virginia had adopted. As a result, tens of thousands of Americans were forcibly sterilized." *Id.*

Buck is a warning that the Second Circuit did not heed. When courts treat "the welfare of society" and "health" as domains in which ordinary free-exercise and parental-rights doctrines do not apply, they can easily find any crisis large enough to overcome those

individual rights. *Buck* used *Jacobson* to take that step for eugenic sterilization. Wartime authorities used a similar necessity claim to intern Japanese Americans. See *Korematsu* v. *United States*, 323 U.S. 214, 216 (1944), *abrogated by Trump* v. *Hawaii*, 585 U.S. 667 (2018). The government later conceded that the claim of military necessity was false. See *Korematsu* v. *United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984). The Second Circuit's implementation in this case of the rationale underlying *Buck* and *Korematsu* may not affect as many individuals as the Court did in those cases, but the Second Circuit's ruling invades the affected individuals' bodily integrity completely. The precedent that licensed *Buck* and *Korematsu* should not justify forcing vaccinations upon a public-school student with a faith-based objection, especially when the student is studying remotely—isolated from other students.

IV. The Court should correct the widespread, overly broad interpretation of *Jacobson*.

The Court has "never felt constrained to follow precedent" "when governing decisions are unworkable or are badly reasoned." *Payne* v. *Tennessee*, 501 U.S. 808, 827 (1991) (quoting *Smith* v. *Allwright*, 321 U.S. 649, 665 (1944)). Although there may not be a need to overrule *Jacobson*, there is a need to update or clarify the test to evaluate the constitutionality of laws invading liberty interests such as that of bodily integrity. Indeed, when courts misapprehend a precedent, the Court should step in and correct that misapprehension. At the very least, because the Court decided *Jacobson* in the midst of an epidemic and on the grounds that the epidemic was a crisis, *Jacobson*

should be cabined to similar crises. Otherwise, the government is free to wield emergency powers during times of stability simply by pointing to *Jacobson* as the basis of its authority.

Professor Josh Blackman recites Justice Alito's 2020 cautions regarding *Jacobson*:

> [I]t's important to keep *Jacobson* in perspective. Its primary holding rejected a substantive due process challenge to a local measure that targeted a problem of limited scope. It did not involve sweeping restrictions imposed across the country for an extended period. And it does not mean that whenever there is an emergency, executive officials have unlimited unreviewable discretion.

Irrepressible Myth, *supra*, at 255–56 (quoting Josh Blackman, *Video and Transcript of Justice Alito's Keynote Address to the Federalist Society*, Reason: Volokh Conspiracy (Nov. 12, 2020), https://perma.cc/ZP8P-8X8P). And as bad facts make bad law, a frantic social environment can also result in questionable reasoning and conclusions. Although courts have accepted *Jacobson* as a shield for broad vaccine mandates, "*Jacobson* hardly supports cutting the Constitution loose during a pandemic." *Roman Cath. Diocese of Brooklyn*, 592 U.S. at 23 (Gorsuch, J., concurring). Indeed, *Jacobson's* "deferential precedent is not a rubber stamp for all government actions during a pandemic." *Irrepressible Myth*, *supra*, at 260–61. "Still, some courts continue to follow *Jacobson*. Indeed, district court judges, bound by circuit precedent, may have their hands tied." *Id.* at 267.

Leaving *Jacobson* in place, with all the accompanying confusion and lowered standard of review, is dangerous. There will be other health emergencies, other societal pressures to bend to governmental dictates in times of trouble, and other crises that demand swift action. "Judges of all stripes have a natural tendency to exercise restraint in times of crisis." *Id.* at 268. But courts should not "shelter in place when the Constitution is under attack. Things never go well when [they] do." *Roman Cath. Diocese of Brooklyn*, 592 U.S. at 25 (Gorsuch, J., concurring).

Courts have considered *Jacobson* as directing a simple rational-basis review of laws in these situations. But the standard of review from *Jacobson* does not resemble modern constitutional law. *Jacobson*'s test did not serve as a progenitor of the modern rational basis test. It is a mistake to conflate the two doctrines." *Irrepressible Myth*, *supra*, at 259–260.

V. Judicial vigilance is warranted more now because New York's school-entry mandate leaves the injured child without a real remedy.

New York mandates certain vaccines for all children—subject to limited exemptions—in any public, private, or parochial school on immunization against a multi-dose pediatric schedule of diseases. N.Y. Pub. Health Law § 2164(1)–(2), (7). The State grants only one exemption, "[if] any physician licensed to practice medicine in th[e] state certifies that such immunization may be detrimental to a child's health." N.Y. Pub. Health Law § 2164(8). In other words, a

physician's certificate is the only individualized way out. Faith is not.

Accordingly, the parents' constitutional claim is the only means they have to resist having their rights violated before the injection occurs. Officials applied that regime to the Amish community schools that are petitioners here. In 2022, the Department of Health charged Dygert Road School, Pleasant View School, and Shady Lane School with noncompliance and imposed combined penalties of $118,000. Pet. App. 6a. Those schools are privately funded, likely one-room community institutions attended exclusively by Amish children. See *Amish Schools: One-Room Schoolhouses and Amish Education*, Amish Country Finder (July 2026), https://amishcountryfinder.org/blog/amish-schools-education. For Old Order Amish families, they are not optional educational settings; they are integral to the religious formation, communal life, and transmission of faith that the parents seek to preserve. See *Wisconsin* v. *Yoder*, 406 U.S. 205, 210–11, 218 (1972). Homeschooling satisfies New York's compulsory-education laws for children who lack a medical exemption, but it does not substitute for the Amish school community, and unvaccinated homeschooled students may not audit or attend classes at nonpublic schools. N.Y. State Educ. Dep't, *Vaccination Requirements Applicable to All Students* 2 (2023), https://www.nysed.gov/sites/default/files/programs/student-support-services/vaccination-requirements-applicable-to-all-students-faq.pdf. The parents' constitutional claim is therefore the only meaningful means of resisting the compelled choice before the injections occur. They must either accept vaccines that

conflict with their sincerely held religious beliefs or withdraw their children from the community schools that form the center of Amish religious and social life—while the schools themselves face ongoing fines that can force closure.

If a student is physically injured by a vaccine, the post-injury regime Congress built does not fill the gap. After product-liability suits drove manufacturers from the market, Congress enacted the National Childhood Vaccine Injury Act of 1986, S. 1744, 99th Cong. § 301 (1986), "to stabilize the vaccine market." *Bruesewitz* v. *Wyeth LLC*, 562 U.S. 223, 228 (2011). The Act covers the vaccines New York requires for school. Health Rsch. & Servs. Admin., *Vaccine Injury Table*, www.hrsa.gov/sites/default/files/hrsa/vicp/vaccine-injury-table-01-03-2022.pdf (last visited Oct. 9, 2026).

It also sharply limits any later claim against the manufacturer of the shots the State demands. Thus, when the government insists that people must get vaccinated, it creates a burden even beyond intruding on one's bodily integrity—any person harmed thereby has limited recourse in state or federal court.

Federal law immunizes a manufacturer for a vaccine-related injury or death associated with the administration of a vaccine if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and accompanied by proper directions and warnings. 42 U.S.C. § 300aa-22(b)(1); see *Bruesewitz*, 562 U.S. at 231–32. A claim based solely on the manufacturer's failure to warn the injured person directly is also barred. 42 U.S.C. § 300aa-22(c). No action for more than $1,000 may be filed against a manufacturer or

administrator unless a petition has first been brought under the Act and the judgment rejected, or the petition withdrawn. 42 U.S.C. §§ 300aa-11(a)(2)(A) and 300aa-21. Punitive damages are unavailable absent fraud, intentional withholding of information, or other criminal or illegal activity. 42 U.S.C. § 300aa-23(d)(2). Further, state courts are closed to the parents because state officials are immune from suit under state law. N.Y. Pub. Off. Law § 17.

What remains is the National Vaccine Injury Compensation Program. But that program is not adequate to compensate for vaccine injuries either. It supplies only a limited, no-fault monetary award after physical harm has already occurred. See *Bruesewitz*, 562 U.S. at 228. It does not prevent or redress the antecedent free-exercise injury: New York's mandate that Amish parents either accept vaccines conflicting with their religious convictions or withdraw their children from the community schools integral to Amish faith and communal life. See *Yoder*, 406 U.S. at 210–11. Even for covered physical injuries, manufacturer immunity, petition prerequisites, and restrictions on recovery leave claimants with incomplete relief. 42 U.S.C. §§ 300aa-22(b)(1), (c), and 300aa-11(a)(2)(A). The Amish petitioners, however, do not seek monetary compensation; they seek to preserve fidelity to their religious conscience. See Goldstein, *supra*.

But in any event, the Amish do not care about monetary compensation; they care about their fealty to their faith—their determination to follow the dictates of their religious conscience as they worship God. "Our almighty God wants us to fully put our faith

and trust in him, which is in conflict to put our trust in vaccines." *Id.* (quoting Ezra Wengerd, an Amish leader). New York's response to that seems to be, "[p]erhaps Mother Nature, by delivering a measles outbreak in New York's Amish community coincident with this case returning to the Supreme Court, is her not-so-subtle hint." *Id.*

CONCLUSION

In 1984, Judge Patel admonished that *Korematsu* "stands as a constant caution that in times of . . . declared [ ] necessity our institutions must be vigilant in protecting constitutional guarantees." *Korematsu*, 584 F. Supp. at 1420; see also *Mahmoud*, 606 U.S. 522 (2025) (upholding parents' rights under the Free Exercise Clause to opt their children out of certain lessons after the State argued it was necessary to include such lessons in the curriculum); *Tandon* v. *Newsom*, 593 U.S. 61 (2021) (enjoining California from imposing occupancy limits on religious gatherings to limit the spread of illness).

These words should guide the Court now. The Court need not overrule *Jacobson* to say what *Jacobson* does not mean: It does not mean that vaccine conditions are exempt from the rule against favoring secular exemptions over religious exercise, and it does not mean that *Mahmoud* stops at the classroom door whenever the State invokes health. *Jacobson*'s intrusions on bodily integrity and individual liberty cannot be justified by "common beliefs" or a vague premise that "government knows best." *Jacobson* cannot justify ejecting a child from virtual public school for her parents' religion while unvaccinated

homeschoolers, pod students, and microschool students remain untouched.

For those reasons, the Court should grant the petition.

Respectfully submitted,

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