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April 27, 2021

VIA EMAIL AND FEDEX

Charlotte A. Burrows, Chair
Jocelyn Samuels, Vice Chair
Janet Dhillon, Commissioner
Andrea R. Lucas, Commissioner
Keith E. Sonderling, Commissioner
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507
info@eoc.gov

Re: *Follow-up on Request for Clarification of EEOC's Guidance Regarding
Vaccine Mandates Under Emergency Use Authorization*

Dear Chair Burrows, Vice Chair Samuels, and Commissioners Dhillon, Lucas, and Sonderling:

We write again on behalf of Informed Consent Action Network with regard to our previous letter dated March 17, 2021 regarding the EEOC's guidance, dated December 16, 2020, titled: "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws" (the "**Guidance**").¹

After a second letter seeking a response, we received an automated response from the EEOC, dated April 22, 2021, confirming that "[t]he EEOC's materials only address COVID-19 as it impacts the anti-discrimination laws enforced by the EEOC" and therefore, the EEOC's advice and guidance regarding COVID-19 vaccines relate solely to "employment discrimination based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information" and **does not account for the prohibition on requiring an emergency use authorized product in 21 U.S.C. §360bbb-3.**

We have relayed the above to our client and they **will publicize your response accordingly starting on May 3, 2021**, including that the EEOC's advice does not account for 21 U.S.C. §360bbb-3 which prohibits employers from requiring the COVID-19 vaccine. If you have

¹ See <https://www.eoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

any further clarification or comment prior to our client publicizing the EEOC's position on this matter, please provide same prior to that date.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'AS', is positioned above the typed names.

Aaron Siri, Esq.
Elizabeth A. Brehm, Esq.
Jessica Wallace, Esq.