EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

WE THE PATRIOTS USA, INC; CT FREEDOM ALLIANCE, LLC; CONSTANTINA LORA; MIRIAM HIDALGO; ASMA ELIDRISSI;	:	DOCKET NO.: 3:21-cv-00597-JBA
Plaintiffs,	:	
v.	:	
CONNECTICUT OFFICE OF EARLY CHILDHOOD DEVELOPMENT; CONNECTICUT STATE DEPARTMENT OF EDUCATION; CONNECTICUT DEPARTMENT OF PUBLIC HEALTH; BETHEL BOARD OF EDUCATION; GLASTONBURY BOARD OF EDUCATION; STAMFORD BOARD OF EDUCATION;	:	
Defendants.	:	July 30, 2021

BRIEF OF AMICUS CURIAE CHILD USA

Marci A. Hamilton, Esq.
CEO, CHILD USA
Fels Institute of Government
Professor of Practice
University of Pennsylvania
Alice Bohn, Esq.
Lauren Majewski, Esq.
Jessica Schidlow, Esq.
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
(215) 539-1906

Paul A. Slager (ct417769)
SILVER GOLUB & TEITELL LLP
184 Atlantic Street
Stamford, Connecticut 06901
Telephone: (203) 325-4491

Counsel for Amicus Curiae, CHILD USA

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STATEMENT OF INTEREST OF AMICUS CURIAE

CHILD USA is the leading national nonprofit think tank working to end child abuse and neglect in the United States. It does so by pairing the best social science research with the most sophisticated legal analysis to determine the most effective public policies to end child abuse and neglect. CHILD USA produces evidence-based solutions and information needed by courts, policymakers, organizations, the media, and society as a whole to increase child protection and the common good. CHILD USA's Founder and CEO, Marci A. Hamilton, is a constitutional scholar who successfully challenged the Religious Freedom Restoration Act (RFRA) at the Supreme Court of the United States in *Boerne v. Flores*, 521 U.S. 507 (1997), and a professor at the University of Pennsylvania. The question of whether a state may compel children to receive immunizations for vaccine-preventable diseases is central to the mission of CHILD USA. It is a question that directly impacts children, which impacts society as a whole. In the context of this important matter, CHILD USA respectfully submits this amicus curiae brief to underscore the constitutional right of the child to be free from vaccine-preventable disease and the State's authority to enforce immunization mandates in the context of its police power and the science supporting vaccines as a positive prevention method.

ARGUMENT

HB 6423 was signed into Connecticut law on April 28, 2021, removing a religious exception to the requirement that students receive vaccinations for diphtheria, hepatitis B, haemophilus influenza type b, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, and varicella prior to their enrollment in public or private school. Ironically, Plaintiffs ask this Court to find that such broad and neutral application of a statute designed to protect children and promote their welfare somehow infringes on their "[personally held] general religious belief" that "harming

a child is morally wrong." Compl. ¶ 28. Plaintiffs do not point to a tenet of their religion prohibiting vaccination, nor do they provide evidence of harm to children. The State's interest in public health easily outweighs any religious objection raised in this case.

In urging the Connecticut Legislature to enact HB 6423 prior to its passage, Connecticut Attorney General William Tong summarized the State's interest as follows: "no serious or reasonable dispute as to the State's broad authority to require and regulate immunizations for children: the law is clear that the State of Connecticut may create, eliminate or suspend the religious exemption . . . in accordance with its well-settled power to protect public safety and health. The exercise of this authority is fully consistent with the Constitutions of the United States and the State of Connecticut." PUBLIC HEALTH COMMITTEE JOINT FAVORABLE REPORT NO. 431 at 2 (Apr. 23, 2021), available at https://www.cga.ct.gov/2021/JFR/H/PDF/2021HB-06423-R00PH-JFR.PDF (hereinafter JOINT FAVORABLE REPORT). As confirmed by the Legislature, children have a right to preventative healthcare protecting them from vaccine-preventable diseases, and parents do not have a right to withhold healthcare and "martyr" their children. *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

I. THE FIRST AMENDMENT DOES NOT CREATE A RIGHT FOR PARENTS TO HARM THEIR CHILDREN

The First Amendment to the United States Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" and absolutely protects the right to believe. U.S. Const. Amend. I. It does not absolutely protect a right to act. *Emp't Div. v. Smith*, 494 U.S. 872, 877 (1990); *Cantwell v. State of Connecticut,* 310 U.S. 296, 303 (1940); *Reynolds v. United States*, 98 U.S. 145, 164 (1878). Although an unalienable right to belief forms the bedrock of the First Amendment, the United States Supreme Court has long held that there is a distinction between state regulation of belief and action. *Cantwell*, 310

U.S. at 303. ("[T]he [First] Amendment embraces two concepts, —freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be."). While state action cannot extend to dictate belief, religious belief may not be used as a shield to prevent state regulation of action—especially where that action has a direct and harmful impact on the safety and rights of others. *Smith*, 494 U.S. at 877.

Parents enjoy a broad right to care and control of their children. *See generally Zelman v. Simmons-Harris*, 536 U.S. 639, 680 n.5 (2002); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) ("[T]he interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court"); *Meyer v. Nebraska*, 262 U.S. 390 (1923) (acknowledging the individual right to "establish a home and bring up children"); *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35 (1925) (acknowledging the right of parents "to direct the upbringing and education of children under their control").

That right, however, stops short of a right to cause, or fail to prevent, harm to their child. *Prince*, 321 U.S. at 166 ("[T]he custody, care and nurture of the child reside first in the parents."); *Wisconsin v. Yoder,* 406 U.S. 205, 233-34 (1972) ("To be sure, the power of the parent, even when linked to a free exercise claim, may be subject to limitation . . . if it appears that parental decisions will jeopardize the health or safety of the child . . . ."). Parents may make choices for their children, including over medical care, but where that choice will incur harm, states have the power to prohibit parent action or inaction to protect child safety. *Id*. Even where a parent may be free to cause harm to themselves, their freedom stops short of permitting extension of that harmful choice to their child. *Prince,* 321 U.S. at 170 (upholding a state law prohibiting parents from involving children in distribution of leaflets on the streets after dark, against a claim that this law interfered

with parents' free exercise of religion). "Parents may be free to become martyrs themselves. But it does not follow that they are free . . . to make martyrs of their children . . . ." *Id*.

The Connecticut General Assembly recognized these clearly defined bounds in enacting HB 6423 and specifically considered the overlap of parental rights and child welfare in removing the religious exemption. Senator Martin Looney accurately assured his colleagues that "[a]dult rights to freely practice religion do not extend to damaging the welfare of their children or other children in the community. Children depend on their parents and guardians to protect their health and well-being." JOINT FAVORABLE REPORT NO. 431, *supra* at 2 (Apr. 23, 2021).

Parents are free to make many choices in their care for their children, and on behalf of their children, but, where that choice will inflict harm on the child, the State is permitted to regulate and prohibit parental freedom for the purpose of ensuring child safety.

A. The United States Supreme Court, and the Several States, Have Long Held That a Parent's Right to Believe May Not Encroach on a Child's Right to Safety

States have broad authority to determine how and when to invoke the police powers to protect their citizens. *See generally Yoder*, 406 U.S. at 218; *Prince,* 321 U.S. at 165; *Zucht v. King*, 260 U.S. 174, 176 (1922); *Jacobson v. Massachusetts,* 197 U.S. 11 (1905). While parents have a right to care and control over their children, that right is not unlimited and does not extend to a right to cause harm to a child. *Zelman*, 536 U.S. at 680; *Troxel*, 530 U.S. at 68; *Meyer*, 262 U.S. at 399; *Pierce*, 268 U.S. at 534–35; *Prince,* 321 U.S. at 166. In particular, the Supreme Court has consistently held that parental freedom may be limited by the state where exercise of that freedom stands to place a child in danger. *Yoder*, 406 U.S. at 218 ("To be sure, the power of the parent, even when linked to a free exercise claim, may be subject to limitation under *Prince* if it appears that parental decisions will jeopardize the health or safety of the child.").

The constitutionality of vaccination requirements was examined over a century ago, in *Jacobson v. Massachusetts,* 197 U.S. 11 (1905), where the Supreme Court held that a municipal health board's vaccination requirements were a valid exercise of police powers, finding "we do not perceive that this legislation has invaded *any right* secured by the Federal Constitution." *Id.* at 38 (emphasis added). In *Prince v. Massachusetts,* 321 U.S. 158 (1994), the Supreme Court later considered whether child labor laws infringe on a parent's right to free exercise. The Court held that the State's "authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience. Thus, he cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds." *Id.* at 166 (footnote omitted). The Court further explained that "[t]he right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death." *Id.* at 166-67. In each of these cases, the public interest in preserving the health and welfare of children outweighed the right of the parent to exercise control over their child based on religious or moral grounds.

The United States Supreme Court has ascribed to parents a constitutional right to deviate from generally applicable child welfare laws only when parents' preferences pose such a small threat to the health or safety of the child and so should be a matter of indifference to the State. *See Yoder*, 406 U.S. at 230 (holding that Amish parents are constitutionally entitled to an exemption from compulsory schooling laws for their children after eighth grade, but only after concluding: "This case, of course, is not one in which any harm to the physical or mental health of the child or to the public safety, peace, order, or welfare has been demonstrated or may be properly inferred."); *Pierce*, 268 U.S. at 534-35 (invalidating a state law requiring all children to attend public school, after applying rational basis review and finding no reason to believe attendance at a private school

was in any way detrimental to children). Children have a constitutional right to survive deadly diseases when treatment is available. *Jehovah's Witnesses v. King County Hospital*, 390 U.S. 598 (1968) (affirming lower court decision ordering blood transfusions for a child needing surgery, over the free exercise objection of Jehovah's Witness parents); *see also Meyer*, 262 U.S. at 399-400 (invalidating a state law prohibiting instruction of children in German after applying rational basis review and finding the law did nothing to serve children's welfare or educational interests). In balancing parents' rights with their duty to safeguard their children's safety, "the Court has emphasized the paramount interest in the welfare of children and has noted that the rights of the parents are a counterpart of the responsibilities they have assumed." *Lehr v. Robertson*, 463 U.S. 248, 257 (1983).

The Supreme Court has further stated in persuasive dictum that a parent "cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds. The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death." *Prince,* 321 U.S. at 166-67. That dictum is consistent with the Court's ruling that "a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah,* 508 U.S. 520, 531 (1993). As such, mandatory vaccination as a condition for admission to school does not violate the Free Exercise Clause. *See Phillips v. City of New York*, 775 F.3d 538, 543 (2d Cir. 2015), *cert. denied,* 577 U.S. 822 (Oct. 5, 2015) (holding that New York's mandatory vaccination requirement does not violate substantive due process); *Workman v. Mingo County Bd. of Educ.*, 419 Fed.Appx. 348, 353-54 (4th Cir. 2011) (unpublished); *Whitlow v.*

California, 203 F. Supp. 3d 1079 (S.D. Cal. 2016) (upholding California's elimination of the personal belief exemption to its mandatory vaccination law).

II. CHILDREN HAVE A RIGHT TO SAFETY FROM VACCINE-PREVENTABLE DISEASE AND STATES MAY TAKE ACTION TO AFFIRM THAT RIGHT

Children have constitutionally protected rights, separate and apart from those of their parents. HB 6423 was designed to protect children and the larger community. Permitting religious exemptions from the Legislature's attempt to guard a child's right to healthcare would work to the detriment of the very children the law was designed to protect. This Court must deny Plaintiffs' challenge, as Connecticut's children have a constitutionally protected right to adequate preventative healthcare and permitting parents to withhold that care would infringe on those rights, unnecessarily placing Connecticut's children at risk of harm caused by vaccine-preventable diseases in direct contravention of Connecticut's legislative intent.

A. Children are Persons Under the United States Constitution, and are Entitled to Rights and Protection Separate from Those of Their Parents

Like the concept of childhood itself, the history of children's rights has been shaped by changing economic, social, cultural, and political circumstances. Stuart N. Hart, *From Property to Person Status: Historical Perspective on Children's Rights*, AMERICAN PSYCHOLOGIST, 46(1), 53-59 (1991). The evolution of children's rights can generally be broken down into three periods each defined by their unique circumstances: (1) children as property; (2) children as persons under the Fourteenth Amendment; and (3) the modern children's civil rights movement.

Prior to the 16th century, there appears to have been no conception of childhood as a unique or distinct period of life. *Id*. Children were largely consigned to the status of parental property or chattel (primarily the father's chattel). *Id*. The Supreme Court, in *Prince v. Massachusetts*, 321

U.S. 158, 170 (1944), established that children have a right to protection from harm independent of their parents.

The children's rights movement took a turn beginning in 1967 with the Supreme Court decision *In re Gault*, 387 U.S. 1 (1967), which held that the Due Process Clause of the Fourteenth Amendment applies to juvenile defendants as well as to adult defendants. Two years later, the Supreme Court held that "students in school as well as out of school are 'persons' under our constitution," and, therefore, exercised First Amendment rights. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969). Almost a decade later, children were again granted recognition as "persons," this time entitling them to many of the same rights as adults. *Planned Parenthood of Cent. Missouri v. Danforth,* 428 U.S. 52, 74 (1976) (holding that "[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights."); *see also Mahanoy Area Sch. Dist. v. B. L. by & through Levy*, 141 S. Ct. 2038, 2044 (2021) ("We have made clear that students do not "shed their constitutional rights to freedom of speech or expression," even "at the school house gate.") (*quoting Tinker* 393 U.S. at 506); *Brown v. Entertainment Merchants Assn.*, 564 U. S. 786, 794 (2011) ("[M]inors are entitled to a significant measure of First Amendment protection . . . .").

B. The State as *Parens Patriae* May Require Immunizations for School Attendance in Order to Protect its Citizens

It is well settled that states have the power to regulate schools. The United States Supreme Court held in *Pierce v. Society of Sisters* that "[n]o question is raised concerning the power of the State reasonably to regulate all schools, to inspect, supervise, and examine them, their teachers and pupils." 268 U.S. at 534-35. Similarly, courts have uniformly treated children's welfare and safety as a compelling state interest, as in *Osborne v. Ohio*, where the Supreme Court held that

"[i]t is evident beyond the need for elaboration that a State's interest in 'safeguarding the physical and psychological well-being of a minor' is 'compelling.'" 495 U.S. 103, 109 (1990); *see also Lassiter v. Dept. of Soc. Servs.*, 452 U.S. 18 (1981) ("[T]he State has an urgent interest in the welfare of the child . . . ."). "[T]he Court has emphasized the paramount interest in the welfare of children and has noted that the rights of the parents are a counterpart of the responsibilities they have assumed." *Lehr*, 463 U.S. at 257.

Regulating school attendance and protecting the safety and welfare of all students by requiring vaccination, regardless of personal or religious belief, is squarely within the powers of states and is an appropriate, necessary, and a generally applicable application of a state's power to impede parent control. In enacting legislation to protect children, "the state as parens patriae may restrict the parent's control by requiring school attendance, regulating, or prohibiting the child's labor, and in many other ways. Its authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience." *Prince*, 321 U.S. at 166 (footnotes omitted); *see also Troxel*, 530 U.S. at 68; *Yoder,* 406 U.S. at 233-34.

All fifty states, the District of Columbia, and the U.S. territories require vaccinations for school attendance. *School Vaccination Requirements and Exemptions*, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/vaccines/imz-managers/coverage/schoolvax view/requirements/index.html (last updated Oct. 12, 2017). Of those, five states require vaccination as a condition to public school enrollment without regard to religious belief: California, Connecticut, Maine, Mississippi, and New York. *See* SB 277, 2015-16 Leg. (CA 2015) (eliminating the personal belief exemption from CA's school enrollment vaccine requirement); HB 6423, 2021 Leg. (CT 2021) (discussing CT religious belief exemption elimination); HP0586, 2019 Leg., 129th Sess. (ME 2019) (eliminating ME religious belief exemption); A2371A, 2019-

21 Leg. (NY 2019) (eliminating NY religious belief exemption); *Workman*, 419 Fed.Appx. at 353–54 (finding that the "constitutional challenges to the West Virginia statute requiring mandatory vaccination as a condition of attending school are without merit"); *Brown v. Stone*, 378 So. 2d 218, 223 (Miss. 1979) (holding that religious exemptions to vaccines violate the Equal Protection clause).

In fact, the Mississippi Supreme Court has ruled religious exemptions to vaccination a violation of the Fourteenth Amendment's Equal Protection clause, explaining:

> The exception, which would provide for the exemption of children of parents whose religious beliefs conflict with the immunization requirements, would discriminate against the great majority of children whose parents have no such religious convictions. To give it effect would result in a violation of the Fourteenth Amendment to the United States Constitution which provides that no state shall make any law denying to any person within its jurisdiction the equal protection of the laws, in that it would require the great body of school children to be vaccinated and at the same time expose them to the hazard of associating in school with children exempted under the religious exemption who had not been immunized as required by the statute.

Id.

Connecticut is wise to join the religious belief exemption elimination trend, as such exemptions are harmful to society at large, in addition to the threat posed to the individual children impacted by their parents' imposition of abstention from necessary medical care. Daniel A. Salmon et al., *Health consequences of religious and philosophical exemptions from immunization laws: individual and societal risk of measles*, 282 JAMA, 47-53 (July 7, 1999) ("On average, from 1985 through 1992, for persons aged 5 to 19 years, exemptors were 35 times more likely to contract measles than were vaccinated persons."); Daniel R. Feikin et al., *Individual and community risks of measles and pertussis associated with personal exemptions to immunization*, 284 JAMA, 3145-3150 (Dec. 27, 2000) ("On average, exemptors were 5.9 times more likely to acquire pertussis than were vaccinated children."). "These exemptions . . . may create confusion that results in harm to

children; parents may be unclear about their duty to provide medical treatment, child protective services agencies may falsely believe that they cannot intervene until after a child suffers serious injury or dies, and prosecutors and courts maybe uncertain whether parents are subject to criminal liability if their child dies of medical neglect." AMERICAN ACADEMY OF PEDIATRICS, POLICY STATEMENT: CONFLICTS BETWEEN RELIGIOUS OR SPIRITUAL BELIEFS AND PEDIATRIC CARE: INFORMED REFUSAL, EXEMPTIONS, AND PUBLIC FUNDING, 132 PEDIATRICS 962, 964 (2013).

III. THE SCIENCE OF IMMUNIZATION SUPPORTS CONNECTICUT'S INTEREST IN ELIMINATING THE RELIGIOUS EXEMPTION TO ITS VACCINATION STATUTE

Connecticut's interest in eliminating the religious exemption clause under the state's vaccination statute satisfies the rational basis test, and even the compelling interest test. It is supported by the best science, which establishes the clear benefits of immunization including reduction in, and even eradication of, certain childhood diseases, reduction in healthcare costs borne by the public because of such diseases, and preservation of public health and safety. These benefits considerably outweigh the nominal risks posed by vaccines and support compulsory vaccination without religious exemption.

The primary benefit of immunization is the individual protection it confers from development of symptomatic illness and thus from disease-related disability or death. Before the advent of modern-day vaccines, millions of Americans were infected with and killed by diseases, such as smallpox, polio, diphtheria, measles, mumps, and rubella. *See* Paul A. Offit, M.D. & Louis M. Bell, M.D., *Vaccines: What You Should Know 3* (John Wiley & Sons 2003). During this period in the United States, every year three thousand of the four million children infected with measles would die, fifteen thousand children would be paralyzed from polio, eight thousand infants would die from pertussis, and diphtheria was among the leading causes of death in school-aged children.

Id. Even if an infectious disease proves non-fatal, it may still cause significant and enduring health consequences. For example, certain vaccine-preventable diseases can cause blindness, deafness, and brain damage even with medical treatment. *See What Would Happen If We Stopped Vaccinations?,* CENTERS FOR DISEASE CONTROL AND PREVENTION, available at http://www.cdc.gov/vaccines/vac-gen/whatifstop.htm (explaining the impact of Hib-induced meningitis, pertussis, and mumps); *see also Epidemiology and Prevention of Vaccine-Preventable Diseases* 157, 158, 285, CENTERS FOR DISEASE CONTROL AND PREVENTION (W. Atkinson et al. eds., 11th ed. 2009) (describing measles-associated encephalitis, varicella-associated encephalitis and aseptic meningitis).

Beyond the protection they afford the individual, vaccines offer wider public health benefits. Brandon F. Churchill, *How Important is the Structure of School Vaccine Requirement Opt-Out Provisions? Evidence from Washington, DC's HPV Vaccine Requirement*, 78 JOURNAL OF HEALTH ECONOMICS 4 (2021). A sufficiently high vaccination rate establishes herd immunity—a term used to describe a community's collective resistance to an infectious disease due to sufficient uptake of vaccination by its individual members—which has been key in suppressing widespread outbreaks of infectious disease. *See* Thomas May & Ross D. Silverman, "*Clustering of Exemptions" As A Collective Action Threat to Herd Immunity,* 21 VACCINE 1048 (2003) (examining the dangers that the "clusters of exemptions" pose to herd immunity). Overall, vaccines have prevented an estimated "322 million illnesses, 21 million hospitalizations, 322 million illnesses, 21 million hospitalizations, and 732,000 deaths over the course of their lifetimes, at a net savings of $295 billion in direct costs and $1.38 trillion in total societal costs." Cynthia G. Whitney et al., *Benefits from Immunization During the Vaccines for Children Program Era — United States, 1994–2013*, 63 MORB. MORTAL. WKLY. REP. 352.

Religious exemptions to mandatory vaccination statutes, however, risk undermining the progress that has been made toward eradication of these horrific childhood diseases and have already proven to have devastating public health and safety consequences. Diseases that were believed to have been largely eliminated in the United States began emerging in religious communities as its members increasingly sought religious exemptions to routine childhood vaccinations. An outbreak of measles in Philadelphia in 1991 involving two non-vaccinating churches, which left nine children dead, offers one the earliest and most heartbreaking examples of the risks posed by religious exemptions to unvaccinated children. *See* Paul A. Offit, *End Religious Exemption*, PHILLY.COM (May 10, 2013), available at http://articles.philly.com/2013-05-10/news/39144680_1_child-abuse-neglect-first-century-gospel ("The nine who died were all children. Church members had made a decision for their own children as well as those with whom their children had come in contact."). Since then, scores of vaccine-preventable disease outbreaks have occurred in groups with religious beliefs against immunizations, including among the Amish, Christian Scientist, and Faith Tabernacle communities. Rita Swan, *Faith-Based Medical Neglect: for Providers and Policymakers*, 13 JOURNAL OF CHILD & ADOLESCENT TRAUMA 343, 348 (2020). A recent review of the scientific literature formally established the link between increases over the past decade in non-medical exemptions in two-thirds of the states that permit such exemptions and a rise in vaccine-preventable outbreaks. *See* Olive J., et. al., *The State of the Antivaccine Movement in the United States: A Focused Examination of Nonmedical Exemptions in States and Counties*, 15(6) PLOS MED (2018). For example, in 2000, public health officials declared measles officially "eliminated" in the United States, yet a 2014 measles outbreak at Disneyland in California shone light on the effect low vaccination rates can have on the reemergence of certain vaccine-preventable diseases. Michael Devitt, *Study Finds Disturbing Trends in Vaccination Exemptions:*

Rising Rates of Nonmedical Exemptions Could Hike Vulnerability to Disease Outbreaks (June 20, 2018), available at https://www.aafp.org/news/health-of-the-public/20180620vaccineexempts.html. In 2015, the California legislature responded to the Disneyland outbreak by repealing the religious and personal belief exemptions to the state's mandatory vaccination statute and, as a result, the state's kindergarten vaccination rates reached an all-time high during the 2016-2017 school year, while the number of kindergarteners with non-medical exemptions reached its lowest level in more than a decade. *Id*. Notably, the legislative repeals have repeatedly withstood constitutional attack and been upheld by the courts. *See Love v. State Dep't of Educ.*, 29 Cal. App. 5th 980 (2018) (holding that the repeal promotes a compelling government interest of ensuring health and safety by preventing the spread of contagious diseases and does not violate the due process, privacy, or education rights of parents or children); *Brown v. Smith*, 24 Cal. App. 5th 1135 (2018) (upholding California's mandatory immunization requirements and holding, *inter alia*, that they do not violate the free exercise clause of the California state constitution).

As in California, the Connecticut legislature considered parents' religious interests prior to repealing the vaccination exemption and determined that those interests are subject to a great deal of limitation when parental decisions could jeopardize the health of Connecticut's citizens, especially the youngest and most vulnerable among them. As the American Academy of Pediatrics explains, "(parents) have less discretion in making medical decisions for their children than for themselves . . . [t]heir liberty should only be limited in cases of direct harm to third parties, such as the risk of transmitting serious infectious diseases." AMERICAN ACADEMY OF PEDIATRICS, POLICY STATEMENT, *supra*, at 963.

Connecticut has a responsibility to take action in the interest of all its citizens, including its children. The potential risks to public health and the economic burdens borne by the community

as a result of non-medical exemptions to vaccines constitute an interest that the Connecticut legislature simply cannot ignore.

CONCLUSION

Connecticut has prioritized the rights and needs of children, recognizing that children are persons in their own right and have a fundamental constitutional right to be protected from disease and death independent of their parents. Indeed, a state cannot constitutionally do otherwise; to allow some parents to withhold immunizations from their children based on the parents' mere disagreement with the law or their religious beliefs would violate the right of those children to equal protection of the laws. Connecticut has responsibly created an exemption only for cases in which State officials verify that immunization would do more harm than good for the health of a child. The United States Constitution does not require Connecticut to create any other exemption, and Plaintiffs' Complaint should be summarily dismissed with prejudice.

Respectfully Submitted,

/s/ Paul A. Slager
Paul A. Slager (ct417769)
SILVER GOLUB & TEITELL LLP
184 Atlantic Street
Stamford, Connecticut 06901
Telephone: (203) 325-4491
Facsimile: (203) 325-3769
Email: pslager@sgtlaw.com