

IN THE SUPERIOR COURT OF JUDICATURE  
IN THE HIGH COURT OF JUSTICE  
(HUMAN RIGHTS DIVISION)  
ACCRA- A.D. 2021

Filed on 20/12/2021  
at 3:00 .....am/pm  
.....

SUIT NO: HR/009/2022 Registrar  
HUMAN RIGHTS COURT "1" ACCRA, G/R

IN THE MATTER OF ARTICLES 21 AND 33 OF THE 1992 CONSTITUTION OF  
THE REPUBLIC OF GHANA

AND

IN THE MATTER OF AN APPLICATION BY SAMMY GYAMFI AND OTHERS  
FOR THE ENFORCEMENT OF THEIR FUNDAMENTAL HUMAN RIGHTS

1. SAMMY GYAMFI  
House No. 22  
Abrewa Bu Avenue  
Haatso-Accra
2. BERNARD ACKAH BLAH  
House No. GT-326-6381  
Accra
3. MAWUKO K. KWAME  
House No. 5 Atta Mills, Street  
Accra
4. BERYS AMA SARPONG  
Plot No. 212, Adade St.  
Ecowas Junction, Kasoa

APPLICANTS

VRS.

1. THE ATTORNEY-GENERAL  
Ministries, Accra
2. GHANA HEALTH SERVICE  
GA-029-4296  
Opposite Tema Station  
Accra
3. GHANA AIRPORT COMPANY  
GL-125-6946  
Airport, Accra

RESPONDENTS

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NOTICE OF MOTION

APPLICATION FOR THE ENFORCEMENT OF FUNDAMENTAL HUMAN  
RIGHTS  
(ORDER 67 OF C.I. 47)

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PLEASE TAKE NOTICE that this Honorable Court shall be moved by Counsel for and on behalf of the Applicants herein praying this Honorable Court for an order of the Court granting the following reliefs:

- a. *A declaration that the impugned directives of the Respondents breach or threaten to breach the Applicants' fundamental human rights as enshrined under Article 21(1)(g) of the 1992 Constitution of Ghana.*
- b. *A declaration that the impugned directives of the Respondents violated Section 2(1) of the Imposition of Restrictions Act, 2020 (ACT 1012) and Sections 21, 22 and 30 of the Public Health Act, 2012 (ACT 851) and therefore illegal.*
- c. *A declaration that the impugned directives of the Respondents contravene the guidelines of the Food and Drugs Authority, Ghana on the administration of Emergency Use Authorized medical products and same are unreasonable.*
- d. *A declaration that the impugned directives of the Respondents contravene the guidelines of the World Health Organization regarding proof of COVID-19 vaccination for international travelers, and that same is unreasonable.*
- e. *A declaration that the impugned directives of the Respondents contravene medical ethics and best practices that govern COVID-19 vaccine administration.*
- f. *An order of Certiorari to bring before this Honorable Court the impugned directives of the Respondents to be quashed as having been made without any constitutional or legal and/or reasonable basis whatsoever.*
- g. *An order of prohibition and/or injunction directed at the Respondents, their agents and/or assigns, restraining them jointly or severally from taking any steps contained in the impugned directives, relating to the implementation of compulsory COVID-19 vaccination at Kotoka International Airport (KIA) constituting restrictions on the freedom of entry into Ghana of citizens and the freedom of leaving Ghana of all persons.*



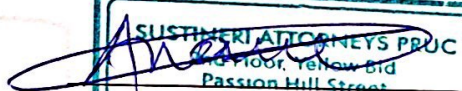
*h. Any further consequential orders that the Honorable Court may deem fit.*

upon the grounds contained in the supporting affidavit.

And for any such further or other order(s) as this Honorable Court may deem fit.

~~STEW~~ COURT TO BE MOVED on the 18<sup>th</sup> JAN. day of JAN. 2021 at 9 o'clock in the forenoon or so soon thereafter as Counsel for the Applicant may be heard.

DATED THIS 20TH DAY OF DECEMBER, 2021 AT SUSTINERI ATTORNEYS PRUC, 2<sup>ND</sup> FLOOR, YELLOW BUILDING PASSION HILL STREET, OGBOJO ACCRA.

  
SUSTINERI ATTORNEYS PRUC  
2<sup>ND</sup> FLOOR, YELLOW BLDG  
PASSION HILL STREET  
OGBOJO  
**BEATRICE F. ANNANGFIO**  
LAWYER FOR APPLICANT  
LIN NO: GAR 01476/21

THE REGISTRAR  
HIGH COURT  
(HUMAN RIGHTS DIVISION)  
ACCRA

AND FOR SERVICE ON:

1. THE ATTORNEY-GENERAL  
Ministries, Accra
2. GHANA HEALTH SERVICE
3. GHANA AIRPORT COMPANY  
Airport-Accra

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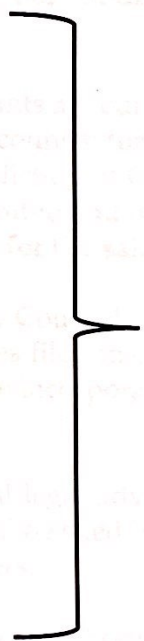
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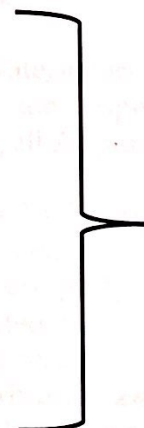
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RESPONDENTS



---

**AFFIDAVIT IN SUPPORT OF MOTION FOR THE ENFORCEMENT OF THE  
FUNDAMENTAL HUMAN RIGHTS OF APPLICANTS**

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I **SAMMY GYAMFI** of H/No. 22, Abrewa Bu Avenue, Haatso-Accra in the Greater Accra Region of the Republic of Ghana make oath and say as follows:

1. That I am the Deponent herein.
2. That I am the first Applicant in the above-instituted suit.
3. That the Applicants are citizens of Ghana and ordinarily resident in Ghana.
4. That I have the consent and authority of the other Applicants to depose to this Affidavit for and on their behalf in support of the Application before this Court praying the Court for orders enforcing our fundamental human rights and freedoms.
5. That whereas the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Applicants are currently in the jurisdiction of Ghana and desire to travel outside the country for business purposes, the 4<sup>th</sup> Applicant is currently outside the jurisdiction of Ghana and desires to travel back into Ghana, her motherland. **[Exhibited and marked exhibit A series are copies of the bookings of flight tickets for the said trips].**
6. That at the hearing of this application, Counsel shall seek the leave of this Honorable Court to refer to all processes filed in connection with the instant Application as if all such processes were incorporated in the present affidavit and deposed to.
7. That the 1<sup>st</sup> Respondent is the principal legal advisor to the Government of Ghana and the proper person to sue and be sued in matters involving official conducts of government or public officers.
8. That the 2<sup>nd</sup> Respondent is the public service body that is responsible for the health of Ghana and involved in providing public health services, managing Ghana's healthcare industry also responsible for policy formulation, monitoring and evaluation, resource mobilization and regulation of health service delivery in Ghana among others.
9. That the 3<sup>rd</sup> Respondent is a body corporate, incorporated pursuant to the Civil Aviation Act, 2004, (ACT 678) with the responsibility of the planning, developing, managing and maintaining all Airports in Ghana.
10. That the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents issued what they described as '*Review Of COVID-19 Protocols For International Travelers*' and '*Updated COVID -19 Guidelines For Kotoka International Airport (KIA)*', on 9<sup>th</sup> and 14<sup>th</sup> December respectively, 2021 in which they directed that *all persons 18 years and above arriving in Ghana will be required to provide evidence of full vaccination for a COVID-19 vaccine at the point of embarkation.* **[Exhibited and marked exhibit B series, is a copy of the said guidelines of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents].**



11. That I repeat paragraph 10 above and say that in the said guidelines, the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents further stated that *all unvaccinated Ghanaians and residents of Ghana who are currently outside the country and intend to return within 14 days from the midnight of the 14<sup>th</sup> December, 2021 are exempted from the said directives. However, they would be vaccinated for COVID-19 upon arrival at the Kotoka International Airport.*
12. That the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents further directed that *all persons traveling out of the country are to be fully vaccinated effective midnight 14<sup>th</sup> December, 2021.*
13. That the 3<sup>rd</sup> Respondent further directed that *'persons who are vaccinated with vaccines on WHO Emergency Use Listing but not registered by FDA, Ghana for Emergency Use Authorization will be offered, Ghana approved vaccines on arrival at the Airport'.*
14. That the 3<sup>rd</sup> Respondent further directed that *'Airlines that bring passengers to Kotoka International Airport who are not fully vaccinated shall be surcharged \$3500 per passenger.'*
15. That to the extent that the directives of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents stipulate that persons, including citizens of Ghana who are 18 years and above but not fully vaccinated will not be allowed to embark on a journey to Ghana and Airlines who bring such persons into Ghana will be surcharged, the said directives are mandatory by their very nature and constitute restrictions on the freedom of movement of such persons.
16. That on Wednesday, 15<sup>th</sup> December 2021 the President of the Republic of Ghana, in an address to the nation announced travel restrictions similar to the directives issued by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents on compulsory COVID-19 vaccination constituting restrictions on the freedom of entry and exit of all unvaccinated persons who are 18 years and above. **[Exhibited and marked exhibit C, is a copy of the said public announcement by the President of the Republic of Ghana].**
17. That the said public announcement by the President of the Republic of Ghana was not predicated on or made pursuant to any law currently in force in the Republic of Ghana.
18. That I am advised by Counsel and verily believe same to be true that the public announcement by the President did not comply with the requirements of the 1992 Constitution or Section 2(1) of the Imposition of Restrictions Act, 2020 (ACT 1012).
19. That I am advised by Counsel and verily believe same to be true that the Respondents do not have any constitutional, legal or reasonable basis whatsoever for the directives issued and dated 9<sup>th</sup> and 14<sup>th</sup> December, 2021 and the public announcement of the 15<sup>th</sup> December 2021 by the President of the Republic of Ghana and being implemented at the Kotoka International Airport (KIA).



20. That I am advised by Counsel and verily believe same to be true, that the Respondents cannot also, by administrative fiat, directives or public announcement order compulsory vaccination or impose any form of restrictions on the freedom of movement of any person without recourse to law. *Any such directive or order must be in compliance with the laws of the Republic of Ghana and currently, such restrictions must be in compliance with the 1992 Constitution or mandatorily be backed by an Executive Instrument issued in accordance with other laws, particularly Section 2(1) of the Imposition of Restrictions Act, 2020 (Act 1012) and Section 22(1) of the Public Health Act, 2012 (ACT 851).*
21. **That accordingly, the grounds upon which we make this instant application for the enforcement of our fundamental human rights are that the directive of the Respondents contained in exhibits B and C amount to a breach or a threatened breach of our fundamental human rights, specifically freedom of movement provided under Article 21(1)(g) of the 1992 Constitution of the Republic of Ghana, and breach Section 2(1) of the Imposition of Restrictions Act, 2020 (ACT 1012) and Sections 21, 22, 30 and 170 of the Public Health Act, 2012 (ACT 851).**
22. That I am advised by Counsel and verily believe same to be true that Article 12(1) of the 1992 Constitution enjoins the Executive, Legislature, Judiciary and all other organs of government and their agencies to respect and uphold the fundamental human rights and freedoms provided under Chapter five (5) of the 1992 Constitution.
23. That I am advised by Counsel and verily believe same to be true that Article 21(1)(g) of the 1992 Constitution expressly guarantees the freedom of movement of all persons in Ghana including the right to move freely in Ghana, **the right to leave or to enter Ghana and immunity from expulsion from Ghana.**
24. That I am advised by Counsel and verily believe same to be true that per Article 21(4) of the Constitution, the freedom of movement for all persons guaranteed under Article 21(1)(g) of the Constitution can only be subjected to the imposition of restrictions by a law that makes provision for the conditions expressly stipulated under sub-clauses (a), (b), (c), (d) and (e).
25. That after Ghana recorded its first case of COVID-19 on 12<sup>th</sup> March, 2020, the Parliament of Ghana as part of measures to contain the spread of the disease, passed the Imposition of Restrictions Act, 2020 (Act 1012). Per Section 2(1) of the said ACT, only the restrictions specified in paragraphs (c), (d), (e) of clause (4) of Article 21 of the Constitution can be imposed by the President by an Executive Instrument acting in accordance with the advice of a relevant person(s) or body.
26. That I am advised by Counsel and verily believe same to be true that in view of this, no institution, body, agency or department has the power to impose any restriction on the freedom of movement provided for by Article 21(1)(g) unless those restrictions are contained in the exceptions provided under Article 21(4) of the 1992 Constitution of the Republic of Ghana.



27. That I am advised by Counsel and verily believe same to be true that Article 21(4)(c) of the 1992 Constitution provides for the imposition of restrictions that are **reasonably required** for defense, public safety, public health or the running of essential services, on the freedom of movement and residence **within** Ghana of all persons.
28. That I am advised by Counsel and verily believe same to be true that even in cases where the 1992 Constitution allows for a law to impose restrictions on the freedom of movement and residence of all persons **within** Ghana, same must be **reasonable** as stipulated by Article 21(4)(c) of the Constitution.
29. That I am advised by Counsel and verily believe same to be true that where the 1992 Constitution intended to impose restrictions on the freedom of entry into Ghana, such restriction was placed **only** on persons who are not citizens of Ghana as provided by Article 21(4)(d) of the Constitution which **provides for the imposition of restrictions on the freedom of entry into Ghana or movement in Ghana of a person who is not a citizen of Ghana.**
30. That I am advised by Counsel and verily believe same to be true that **no provision was made in Article 21(4) for restrictions on the right to leave Ghana of any person guaranteed by Article 21(1)(g) of the 1992 Constitution.**
31. **That I am advised by Counsel and verily believe same to be true that neither the 1992 Constitution nor the Imposition of Restrictions Act, 2020 (Act 1012) has provided for the restriction of the freedom of entry into Ghana of a citizen of Ghana or the right to leave Ghana of all persons as guaranteed by Article 21(1)(g) of 1992 Constitution.**
32. That I am advised by Counsel and verily believe same to be true that the impugned directives by the Respondents which is mandating a compulsory COVID-19 vaccination are a restriction on the freedom to leave Ghana of all unvaccinated persons who are 18 years and above, (*without regard for the travel rules and regulations of the destination country*), is in breach of our freedom of movement as enshrined under Article 21(1)(g) of the Constitution.
33. That all persons including foreigners leaving Ghana in the exercise of their constitutionally guaranteed freedom of movement, who have tested negative for COVID-19 in an accredited laboratory in Ghana, pose no risk whatsoever to Ghana's COVID-19 response plan and therefore, the directives of the Respondents that are denying such persons their freedom to leave the country is absurd, unreasonable and unconscionable.
34. That I am advised by Counsel and verily believe same to be true that the impugned directives by the Respondents, which is mandating a compulsory COVID-19 vaccination is a restriction on the freedom of entry into Ghana of all unvaccinated **citizens of Ghana** who are 18 years and above, and is in breach our freedom of movement as enshrined under Article 21(1)(g) of the constitution, as no such power is given by any law to the Respondents.
35. *That by law, citizens of Ghana traveling into Ghana who provides a Ghanaian passport as proof of their Ghanaian nationality at the point of embarkation cannot be denied*



*their freedom to travel to or enter Ghana on grounds of compulsory COVID-19 vaccination.*

36. That even when COVID-19 was declared a pandemic by the World Health Organization (WHO) and the Kotoka International Airport was closed by the Government of Ghana subsequently, citizens of Ghana were evacuated from all across the world into Ghana despite their COVID-19 status. Those who tested positive in a PCR Test upon arrival in Ghana were quarantined and discharged upon full recovery.
37. That countries that have introduced compulsory COVID-19 vaccination restrictions on the right of entry of persons into those countries, including countries that have recorded far more COVID-19 positive cases, have exempted their citizens from such entry restrictions. **[Exhibited and marked exhibit D series are copies of such directives by some Countries].**
38. That the 3<sup>rd</sup> Respondent currently has facilities for conducting a Rapid COVID-19 Antigen Test at the Kotoka International Airport (KIA) to determine the COVID-19 status of all persons arriving into the country. Already, the Respondents have made it mandatory for all persons, **including fully vaccinated people** traveling into the country to produce a negative PCR test issued within 72 hours prior to their embarkation to Ghana from an accredited laboratory in the country of origin and to also test negative in a rapid antigen test upon arrival at the Airport. Persons who test positive for COVID-19 upon arrival at the Airport are made to undergo mandatory quarantine, treatment, and discharge upon recovery.
39. That I am advised by Counsel and verily believe same to be true that the directives of the Respondents, purporting to impose compulsory COVID-19 vaccination restrictions on the freedom of entry into Ghana of **all unvaccinated citizens** who are 18 years and above even after they have met all these COVID-19 testing conditions and have been declared as negative is not only unlawful but unreasonable.
40. That all unvaccinated persons, including citizens of Ghana, traveling into and out of Ghana, who produce a negative PCR test from an accredited laboratory in the country of origin and a rapid antigen test upon arrival, pose no coronavirus threat, for which reason they cannot be lawfully or reasonably denied their constitutional right to enter or leave Ghana by the Respondents.
41. That scientific studies by the Research Unit of the National Institute for Health Research in UK and Lancet Infectious Diseases, one of the world's most reputable international medical agencies and expert-written *peer-reviewed* journals with several laboratories across the globe, show that COVID-19 vaccines are significantly ineffective in preventing COVID-19 infections (breakthrough infections) and transmission. This means that the said COVID-19 vaccines are incapable of preventing those who have taken it from getting infected with COVID-19 and spreading the infection to others. They have also proven incapable of protecting vaccinated people from being severely ill or hospitalized and/or deaths from COVID-19 infections. **[Exhibited and marked exhibit E series are copies of the said publications].**



42. That the conduct of the Respondents as regard the established COVID-19 testing regime for travels to or from the Kotoka International Airport, which requires fully vaccinated persons to present a negative PCR test issued within 72 hours of embarkation to the country and to further test negative in a rapid antigen test upon arrival in the country, corroborates the findings in Exhibit E series.
43. That per information published on the official website of the World Health Organization, all COVID-19 vaccines recommended by the Organization for emergency use listing have an efficacy rate of just 50% or above. [Exhibited and marked exhibit F is a copy of the said publication].
44. That a scientific study published by the Europe chapter of Lancet Regional Health, one of the world's most reputable international medical agencies and expert-written, *peer-reviewed* journals with several laboratories across the globe, have shown that **COVID-19 vaccinated persons spread the coronavirus disease more than the unvaccinated.** [Exhibited and marked Exhibit G is a copy of the said publication].
45. That a scientific study conducted by a Professor of Population Health at Harvard University, S.V Subramanian and a Professor of data science at Penn State, Akhil Kumar which has been published by the National Center of Biotechnology Information (NCBI) of the United States of America (USA), a state agency that is part of the National Library of Medicine, a branch of the National Institutes of Health showed, that countries with the highest vaccination rates had a higher number of COVID-19 positive cases per one million people than countries with relatively lower vaccination rates. [Exhibited and marked Exhibit H is a copy of the said publication].
46. That given the fact that the COVID-19 vaccines being forced and mandated by the Respondents on all unvaccinated persons who are 18 years and above and are traveling to or from Ghana do not prevent people from contracting the virus or spreading same, for which reason even fully vaccinated and boosted persons are still required to produce a negative PCR Test issued within 72 hours of embarkation to Ghana and an additional negative antigen test upon arrival at the Kotoka International Airport, it is the COVID-19 status of a person entering or leaving Ghana that should reasonably be the concern of the Respondents and not their vaccination status.
47. That I am advised by Counsel and verily believe same to be true that although the Public Health Act, 2012 (ACT 851) empowers the Minister for Health to order compulsory vaccination by issuing an Executive Instrument (E.I) to that effect, no such E. I was issued before the impugned directives were issued by the Respondents. The said directives, therefore, lack a legal basis.
48. That I am advised by Counsel and verily believe same to be true that even in cases where the Minister for Health issues an Executive Instrument ordering compulsory vaccination under the Public Health Act, 2012 (ACT 851), **the penalties for non-compliance have been expressly provided under Section 30 of the ACT, and same does not contemplate, envisage or provide for the**



**restriction of the freedom of entry or exit from Ghana of any persons as the Respondents have sought to do in the impugned directives.**

49. That I am advised by Counsel and verily believe same to be true that an Executive Instrument issued by the Minister for Health cannot impose any penalties and/or restriction contrary to or outside the ambit of the penalties provided under Section 30 of ACT 851. *Therefore, the directives of the Respondents purporting to impose restrictions on the freedom of entry into and exit from Ghana of citizens contravenes Section 30 of ACT 851 and has no legal basis whatsoever.*
50. That I am advised by Counsel and verily believe same to be true that *if the Respondents desire to introduce compulsory vaccination on grounds of a public health emergency, they should have adhered to the dictates of the law and ensure they do so on the basis of an Executive Instrument issued by either the President of the Republic or the Minister for Health, which E. I must respect the exceptions to compulsory and/or Public vaccination provided for under the Imposition of Restrictions Act, 2020 (ACT 1012) and the Public Health Act, 2012 (ACT 851) and the same should be subject only to penalties and/or remedies provided by law.*
51. That I am advised by Counsel and verily believe same to be true that *even where a public health emergency is declared by an E. I issued by the Health Minister under Section 169 of ACT 851 in situations that pose an immediate risk to health, life, property, or the environment, Section 170 of the same law has expressly stipulated the emergency powers the Minister for Health can exercise in respect of such public health matters and that same do not contemplate, envisage, or provide for the restriction of the freedom of entry into or exit from Ghana of any citizen or other persons as the impugned directives of the Respondents seek to do.*
52. That I am advised by Counsel and verily believe same to be true that even the power of the Minister of Health to issue an Executive Instrument to order compulsory vaccination under Section 22 and 25 of the Public Health Act, 2012 (Act 851) is not absolute, *as same exempts persons with natural immunity and situations where the vaccine would be injurious to health.* And that the directives of the Respondents make no such exceptions or provisions thereby rendering same illegal.
53. That the impugned directives of the Respondents contravene the *'Interim Position Paper, Considerations Regarding Proof Of Covid-19 Vaccination For International Travelers'* of the World Health Organization (WHO) issued on 5<sup>th</sup> February, 2021 which provides that; national authorities should not require proof of COVID-19 vaccination as a condition for international travels (departure or entry) *'given that there are still critical unknowns regarding the efficacy of vaccination in reducing transmission'*. [Exhibited and marked exhibit J is a copy of the said WHO document]
54. That the WHO itself professes that presently they *'do not support the direction of mandates for COVID-19 vaccination'* (compulsory COVID-19 vaccination). This information is contained in the WHO *'Covid-19 And Mandatory Vaccination: Ethical Considerations and Caveats'* Issued On 13<sup>th</sup> April, 2021. [Exhibited and marked exhibit K is a copy of the said WHO document]



55. That in the impugned directives, the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents **falsely stated** that the COVID-19 vaccines which all unvaccinated persons traveling into and out of Ghana are mandated to take, namely; AstraZeneca, Pfizer, Moderna, Sputnik V, and Johnson and Johnson, have been '**approved and registered** by the Food and Drugs Authority (FDA), Ghana, the appropriate state institution, responsible for registering medical products for sale, distribution, importation, exportation, supplies among others in Ghana.
56. That information published on the website of the FDA ([www.fdaghana.gov.gh](http://www.fdaghana.gov.gh)) as recent as 11<sup>th</sup> December, 2021 indicates that the said COVID-19 vaccines have only been given **Emergency Use Authorization** by the FDA. And that none of the said COVID-19 vaccines has been registered by the Authority in accordance with Section 118 of the Public Health Act, 2012. This was confirmed by the Public Relations Officer of the FDA in an interview with Accra-based radio station 'Asempa' (94.7) FM on Monday, 13<sup>th</sup> December, 2021. [Exhibited and marked exhibit L series, is a printed copy of the said publication on the FDA's website and the recording of the said interview by the Public Relation Officer of the FDA]
57. That the FDA's guidelines on Emergency Use Authorization (EUA), Version No.:2, issued on 5<sup>th</sup> February, 2021 indicate that *Emergency Use Authorization is given to an unregistered medical product or for the unapproved use of a registered product* during an emergency and that there is unknown risk associated with such EUA products. This is also contained in the FDA's guidelines on EUA issued on 15<sup>th</sup> March, 2019.
58. That the claim by 2<sup>nd</sup> and 3<sup>rd</sup> Respondents that the said COVID-19 vaccines referred to in paragraph 55 supra have been duly 'registered and approved by the FDA of Ghana, is not supported by the FDA's position on its official website and their guidelines on EUA. [Exhibited and marked exhibit M series are copies of the said guidelines of the FDA].
59. That paragraph 4.2. (c) and 4.3 of the FDA's guidelines on Emergency Use Authorization (EUA), Version No.:2, issued on 5<sup>th</sup> February, 2021 provides for conditions of EUA authorization, *which recommend that recipients of Emergency Use Authorized medical products to be given an opportunity upon receiving as much appropriate information about the EUA product to either accept or reject same*. Therefore, the impugned directives of the Respondents contravene the FDA's guidelines on Emergency Use Authorization and same is unreasonable.
60. That the Moderna and Johnson and Johnson vaccines have not even been approved by the FDA of the USA where they are manufactured. This renders the claim of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondent that the FDA of Ghana has approved these two vaccines untenable and unreasonable.
61. *That to the extent that the FDA of Ghana has not concluded its study and investigations into the efficacy and safety of the said Emergency Authorized COVID-19 vaccines, and to the extent that the FDA of Ghana admits that there are significant unknown risks associated with the said unregistered vaccines, they may be injurious*



to health and therefore, cannot be forced on all unvaccinated travelers by the Respondents. Any such directive is in contravention of the authorization conditions of the said vaccines provided by the FDA of Ghana.

62. That although the 2<sup>nd</sup> Respondent has not published any data on the adverse effects of the said unregistered COVID-19 vaccines as it is done in other countries, the serious adverse effects including fatalities (deaths) and heart inflammation diseases associated with the said vaccines as reported by the WHO, the Centers for Disease Control and Prevention (CDC) of the United States and other credible sources are significant and cannot be disregarded by the Respondents in formulating policies and programs for Ghana's COVID-19 fight. [Exhibited and marked exhibit N series are copies of a request by the Deponent to the 2<sup>nd</sup> Respondent, the Ministry of Health and the FDA of Ghana for information on the adverse effects associated with the said COVID-19 vaccines and copies of publications of the WHO, the CDC and other news reports by reputable media networks on same].
63. That even though Ghana has one of the lowest COVID-19 vaccination rates in the world, we have so far recorded relatively low numbers of positive COVID-19 cases with its associated hospitalizations and fatalities. Ghana's COVID-19 infection rate remains lower compared to other countries with far higher vaccination rates.
64. That the impugned directives of the Respondents contravene the WHO's recommendation in their '*Covid-19 And Mandatory Vaccination: Ethical Considerations and Caveats*' (EXHIBIT K) that '**Policy-makers should consider specifically whether vaccines authorized for emergency or conditional use meet an evidentiary threshold for safety sufficient for a mandate. In the absence of sufficient evidence of safety, there would be no guarantee that mandating vaccination would achieve the goal of protecting public health. Furthermore, coercive exposure of populations to a potentially harmful product would violate the ethical obligation to protect the public from unnecessary harm when the harm the product might cause outweighs the degree of harm that might exist without the product**'.
65. That out of the five (5) COVID-19 vaccines the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents claim the FDA of Ghana has "registered and approved" and are forcing on all unvaccinated persons who are 18 years and above and traveling to or out of Ghana, three (3) are manufactured in the United States of America (USA), namely, Pfizer, Moderna and Johnson and Johnson. Out of these three, only the Pfizer vaccine has been approved by the FDA of the USA.
66. That the Pfizer vaccine was approved by the FDA of USA on 23<sup>rd</sup> August, 2021, far ahead of the company's own scheduled clinical trial completion date of 15<sup>th</sup> May, 2023. [Exhibited and marked exhibit O series are copies of official publications and media reports that confirm this matter of fact].
67. That subsequent to the approval of the Pfizer vaccine by the FDA of the United States, the Public Health and Medical Professionals for Transparency, a Non-Profit Organization in the USA made up of scientists, Public health experts, medical doctors among other health professionals and academics, made an



expedited request from the FDA of the USA, for the data and information in the biological product file of the Pfizer vaccine that the FDA relied on to license the Pfizer vaccine, pursuant to the Freedom of Information Act of the USA. The FDA of the USA refused this request and opposed same in Court. The FDA of the USA requested the United States District Court, Northern District of Texas to give them 55 years to produce the said documents, which they claim to be 329,000 pages. [Exhibited and marked exhibit P series are copies of the Court documents and media reports that confirm these matters of fact].

68. That a confidential document released as part of the first batch of documents by the FDA of the US pursuant to the orders of the United States District Court, Northern District of Texas, titled "*Commulative Analysis Of Post-Authorization Adverse Event Reports Of Pf-073020 (Bnt162b2) Received Through 28-Feb-2021*" shows that *there were 1,223 fatalities (deaths) and a total of 42,086 case reports of serious adverse effects or injuries to health associated with the Pfizer vaccine within only the first 90 days of its rollout*. These figures are significant and have generated serious concerns about the safety of the said Pfizer vaccine all across the world, which vaccine the FDA of Ghana has not registered. [Exhibited and marked exhibit Q series is a copy of the said Pfizer confidential document and copies of media publications on same that confirm these matters of fact].
69. *That in the United States of America (USA) where the Pfizer, Moderna and Johnson and Johnson vaccines are manufactured and were first authorized for EUA, the Centers for Disease Control and Prevention (CDC) have as recent as 16<sup>th</sup> December, 2021 cautioned adults in the USA on taking the Emergency Use Authorized Johnson and Johnson vaccine due to certain serious adverse effects mainly blood clots and low blood platelet that they have found to be associated with the said vaccine. The CDC has confirmed 54 cases of people developing blood clots and showing low blood platelet levels following the Johnson and Johnson vaccination. All the affected patients were hospitalized, nine died and 36 were treated in the Intensive care unit. [Exhibited and marked exhibit R series is a copy of the said directive of the CDC-USA and news publications to that effect]*
70. *That no medical product certified as safe should be lethal or fatal to life when administered in accordance with its approved uses, indications and therapeutic range. Given the fact that some of the said COVID-19 vaccines have and continue to cause deaths of people who have taken it as reported by Pfizer, the CDC, the WHO and other credible sources, the same cannot be conclusively said to be safe. The impugned directives of the Respondents are therefore unreasonable.*
71. That it is unreasonable to compel rational human beings to take vaccines, the efficacy and safety of which are still being studied and investigated by the FDA of Ghana, the WHO and scientists across the world, *particularly when the unknown potential short- medium- and long-term adverse effects of the said COVID-19 vaccines are significant.*
72. That I am advised by Counsel and verily believe same to be true that the impugned directives of the Respondents, purporting to force these *unregistered*



*and potentially unsafe vaccines on all unvaccinated persons who are 18 years and above and traveling into or out of Ghana, without due regard for the exceptions provided by Section 22 of the Public Health Act, 2012 (ACT 851) or its potential adverse effect on health, is unlawful and unreasonable.*

73. *That in the United States of America where the Pfizer, Moderna and Johnson and Johnson vaccines are manufactured, the Centers for Disease Control and Prevention (CDC) have expressly published specific contraindications to guide the administration of the said vaccines which exempts some persons with certain conditions from the said COVID-19 vaccination, such as persons who have suffered myocarditis or pericarditis (heart inflammation disorders) after a dose of an mRNA COVID-19 vaccine until additional safety data are available. The impugned directives for compulsory vaccination issued by the Respondents herein, do not take cognizance of or make provision for any such contraindications, nor have 2<sup>nd</sup> Respondent nor the FDA of Ghana published any such contraindication guidelines. [Exhibited and marked exhibit S is a copy of the said COVID-19 vaccine contraindication guidelines published by the CDC of the USA].*
74. *That the CDC further provides among others, in their contraindication guidelines for COVID-19 vaccines (Pfizer, Moderna, and Johnson and Johnson) (Exhibit S), that Primary series doses and additional primary doses for moderately and severely immunocompromised people should be with the same mRNA vaccine product. And that in exceptional situations for people 18 years of age or older, such as a contraindication to the second dose of mRNA vaccine or when the previous product cannot be determined or is not available another mRNA FDA-approved or authorized COVID-19 vaccine may be used but must be administered at a minimum interval of 28 days.*
75. *That given the fact that the CDC of the USA has provided for specific time intervals within which people with certain medical conditions can take a second dose of the said COVID-19 vaccines, the Respondents cannot reasonably compel all persons 18 years and above traveling to or arriving at or departing from the Kotoka International Airport to be fully vaccinated with the said COVID-19 vaccines.*
76. *That persons with such special medical conditions have to be exempted from compulsory COVID-19 vaccination in line with Section 22(1) of the Public Health Act, 2012. They cannot be reasonably compelled to take vaccines that are likely to be injurious to their health as the Respondents have sought to do in their impugned directives.*
77. *That I am advised by Counsel and verily believe same to be true that the directives of the Respondents purporting to force and mandate the said unregistered and potentially unsafe COVID-19 vaccines on all unvaccinated persons 18 years and above traveling out of or into or arriving at the KIA, including persons traveling to seek urgent medical treatment, contravene the ethics of medical practice that govern vaccinations and therefore unreasonable.*
78. *That, in the recent directive of the CDC, exhibited herein as exhibit "P series", the CDC indicated that persons who are allergic to the Pfizer and Moderna COVID-*



19 vaccines can refuse to take those vaccines. This has also been recommended by the FDA of Ghana in an official document titled; 'Frequently Asked Questions (FAQs) on the Safety of COVID-19 Vaccines' dated 1<sup>st</sup> March 2021. [Exhibited and marked exhibit T is a copy of the said document].

79. That the impugned directives are dangerous for public health and neither seek to protect the public interest nor the fundamental human rights of persons in Ghana as envisaged by Article 12(2) of the 1992 Constitution.
80. That most of the manufacturers of the said unregistered COVID-19 vaccines (Pfizer, Moderna, AstraZeneca, Johnson and Johnson) have a policy of indemnification against all legal suits that may arise as a result of adverse effects associated with their vaccines, as a pre-condition for supplies to countries and purchasers. The impugned directives by the Respondents purporting to force the said vaccines on all unvaccinated people who are 18 years and above and are traveling to or out of Ghana, in the face of this indemnification is unreasonable. [Exhibited and marked exhibit U series is a copy of a document published by Transparency International and the WHO Collaborating Center for Governance, Accountability and Transparency in the Pharmaceutical Sector as well as media reports that confirm this fact.].
81. That I am advised by Counsel and verily believe same to be true that the said indemnification of the manufactures of the COVID-19 vaccines contravene the 'Covid-19 And Mandatory Vaccination: Ethical Considerations And Caveats' Of The WHO (EXHIBIT K) which stipulates that '*even when the vaccine is considered sufficiently safe, mandatory vaccination should be implemented with no-fault compensation schemes to address any vaccine-related harm that might occur. This is important, as it would be unfair to require people who experience vaccine-related harm to seek legal remedy from harm resulting from a mandatory intervention*'.
82. That I am advised by Counsel and verily believe same to be true that the impugned directives of the Respondents and the President of Ghana, mandating and forcing all unvaccinated persons who are 18 years and above traveling into or out of Ghana to be fully vaccinated do not make any provision for the exception of natural immunity stipulated under Section 21 and 25 of the Public Health Act, 2012 (Act 851), which has been found by several credible and reliable scientific studies to be stronger than vaccine-induced immunity. [Exhibited and marked exhibit V series are copies of publications on reports on credible scientific studies in Israel, Michigan-USA and by Public Health England that have confirmed natural immunity to COVID-19 in persons who have recovered from the coronavirus disease]
83. That data published by the 2<sup>nd</sup> Respondent on Ghana's COVID-19 situation on their website ([www.ghs.gov.gh](http://www.ghs.gov.gh)) as of 1 pm on 18<sup>th</sup> December, 2021 shows that 131,911 people have so far contracted the COVID-19 disease in Ghana, out of which 129,683 have recovered and been discharged. [Exhibited and marked exhibit W is a copy of the said Publication of the 2<sup>nd</sup> Respondent].
84. That I am advised by Counsel and verily believe same to be true that the impugned directives of the Respondents that are mandating and forcing all

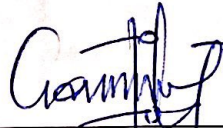


unvaccinated persons who are 18 years and above, traveling into or out of Ghana to be fully vaccinated *including those who have fully recovered from COVID-19 infections and have developed natural immunity to the disease, contravene Section 21(2) and 25(1)(b) of the Public Health Act and same is unreasonable.*

85. That the 3<sup>rd</sup> Respondent's directive that FDA, Ghana 'approved and registered' COVID-19 vaccines will be offered upon arrival at the KIA to 'persons who are vaccinated with vaccines on WHO Emergency Use Listing but not registered by FDA, Ghana for Emergency Use Authorization is unreasonable and can be injurious to the health of such persons.
86. *That there are many Ghanaian citizens abroad such as the 4<sup>th</sup> Applicant herein who although are desirous to travel to Ghana their motherland, and many people in Ghana such as the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Applicants, who although are desirous to travel out of Ghana to other countries for business or other important purposes, have been held hostage and are unable to do so due to the unlawful and unreasonable directives and conduct of the Respondents.*
87. That unless this Honorable Court intervenes, the Respondents will unlawfully infringe on the rights of the Applicants to enter and/or leave Ghana in flagrant breach of their fundamental human rights to movement, enshrined under Article 21(1)(g) of the 1992 Constitution of Ghana and *same is likely to undermine public health and cause several avoidable injuries to health including the deaths of innocent people such as the Applicants.*
88. That on the basis of the grounds deposed to in the instant affidavit, the Applicants pray this Court for the following reliefs;
- i. *A declaration that the impugned directives of the Respondents breach or threaten to breach the Applicants' fundamental human rights as enshrined under Article 21(1)(g) of the 1992 Constitution of Ghana.*
  - j. *A declaration that the impugned directives of the Respondents violated Section 2(1) of the Imposition of Restrictions Act, 2020 (ACT 1012) and Sections 21, 22 and 30 of the Public Health Act, 2012 (ACT 851) and therefore illegal.*
  - k. *A declaration that the impugned directives of the Respondents contravene the guidelines of the Food and Drugs Authority, Ghana on the administration of Emergency Use Authorized medical products and same are unreasonable.*
  - l. *A declaration that the impugned directives of the Respondents contravene the guidelines of the World Health Organization regarding proof of COVID-19 vaccination for international travelers, and that same is unreasonable.*

- m. A declaration that the impugned directives of the Respondents contravene medical ethics and best practices that govern COVID-19 vaccine administration.
- n. An order of Certiorari to bring before this Honorable Court the impugned directives of the Respondents to be quashed as having been made without any constitutional or legal and/or reasonable basis whatsoever.
- o. An order of prohibition and/or injunction directed at the Respondents, their agents and/or assigns, restraining them jointly or severally from taking any steps contained in the impugned directives, relating to the implementation of compulsory COVID-19 vaccination at Kotoka International Airport (KIA) constituting restrictions on the freedom of entry into Ghana of citizens and the freedom of leaving Ghana of all persons.
- p. Any further consequential orders that the Honorable Court may deem fit.

89. WHEREFORE I depose to this affidavit in support of this Application by the Applicants.



DEPONENT

SWORN TO IN ACCRA)  
THIS 20<sup>th</sup> DAY OF)  
DECEMBER, 2021)

BEFORE ME

COMMISSIONER OF OATHS

