

# Exhibit B

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13 **UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 MARK McDONALD AND JEFF BARKE,  
15  
16 Plaintiff,

Case No. 8:22-cv-01805-FWS-ADS

17 v.

**DECLARATION OF JEFF BARKE, M.D.**

18 KRISTINA D. LAWSON, *in her official capacity as*  
*President of the Medical Board of California;*  
19 RANDY W. HAWKINS, *in his official capacity as*  
*Vice President of the Medical Board of California;*  
20 LAURIE ROSE LUBIANO, *in her official capacity as*  
*Secretary of the Medical Board of California;*  
21 MICHELLE ANNE BHOLAT, DAVID E. RYU, RYAN  
BROOKS, JAMES M. HEALZER, ASIF MAHMOOD,  
22 NICOLE A. JEONG, RICHARD E. THORP, VELING  
23 TSAI, and ESERICK WATKINS, *in their official*  
*capacities as members of the Medical Board of*  
24 *California;* and ROBERT BONTA, *in his official*  
*capacity at Attorney General of California,*

25 Defendants.  
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1 Pursuant to 28 U.S.C. § 1746, Jeff Barke declares as follows:

2 1. I am over 18 years of age, am a Plaintiff in this lawsuit, and have personal knowledge of  
3 the facts described herein.

4 2. I am a physician licensed in the State of California and operate a concierge medicine  
5 practice in the Newport Beach.

6 3. I am a graduate of the University of Southern California, and University of California,  
7 Irvine, Medical School.

8 4. After graduating from medical school in 1990, I completed a residency in family practice,  
9 also at UC Irvine.

10 5. I remain up-to-date on all continuing medical education requirements.

11 6. In addition to CME classes, I remain familiar with the latest in medical research and best  
12 practices by reading many traditional sources of medical information including JAMA (the Journal of the  
13 American Medical Association), AFP (American Family Physicians), and NEJM (New England Journal  
14 of Medicine) to name a few. I also read from several non-traditional, more holistic, natural medicine  
15 sources as well. My goal is to stay current with both traditional Western medical thinking as well as  
16 naturopathic medical practice so I can provide the most comprehensive care possible to my patients.

17 7. I am board certified in family practice.

18 8. I previously served as a consulting physician expert for the California Medical Board,  
19 who would turn to me for insight and expertise on the appropriate standard of care for license  
20 investigations brought against general practice doctors.

21 9. My medical practice in Newport Beach serves several hundred clients, who turn to me for  
22 my best medical advice on a range of health issues.

23 10. During the course of the COVID-19 pandemic, many of my patients turned to me to test  
24 for, diagnose, treat, and prevent COVID-19. I provided scores of patients with my best medical advice on  
25 issues including testing, treatment, masking, and vaccination.

26 11. The treatment protocol I use in my own practice most often was developed by Dr. Pierre  
27 Kory, M.D., M.P.H. , who is a pulmonary and critical care specialist. I have treated hundreds of patients  
28 with Covid-19 in all risk categories with great success using variations of the Corry protocol. The early

1 treatment protocol includes medications and supplements in various doses involving: Ivermectin,  
2 fluvoxamine, aspirin, vitamin D, quercetin, zinc, monoclonal antibodies, and steroids. These are presented  
3 in a sequenced multi-drug strategy depending on the patient's age, severity of symptoms and other factors.  
4 I also consulted protocols developed by Dr. Vladimir Zelenko and by Dr. Brian Tyson, who has treated  
5 more than 10,000 COVID patients with an almost perfect record.

6 12. As time and medical science progressed, I have recently added a consideration in my  
7 treatment regime based on a recommendation of Dr. Peter A. McCullough. He favors early use of a  
8 nose/throat irrigation strategy to reduce the Covid viral load, again based on scientific studies.

9 13. In appropriate instances, following established protocols based on extensive scientific  
10 research, I advised or prescribed ivermectin and hydroxychloroquine to treat COVID-19. In one case I  
11 have already disclosed publicly, I called in a prescription for Ivermectin for a patient who had recently  
12 tested positive for Covid and was presenting mild symptoms. I had to explain to the patient's pharmacist  
13 that the prescription was in line with appropriate protocols, and she agreed to dispense it.

14 14. There is also growing evidence that a patient's low level of vitamin D correlates with a  
15 bad outcome for COVID-19. As a result, I am now routinely recommending to my patients supplements  
16 such as Vitamin D, Zinc, Quercetin, and Melatonin at appropriate dosages.

17 15. When my patients have asked me about preventing COVID-19 through masking, I have  
18 provided medically accurate information about masking. I have pointed them to countless studies to  
19 bolster the point that masks do not prevent respiratory viral illnesses and in the case of young children  
20 can even be harmful to them.

21 16. When my patients have asked me about preventing COVID-19 through vaccination, I  
22 have provided medically accurate information about vaccination. I tailor my medical advice to the  
23 medical needs of the patient, including age, other medical conditions, and likelihood of exposure. I also  
24 include information about natural immunity as an alternative to vaccination or boosters.

25 17. At many points during the pandemic, the recommendations, information, and treatment  
26 that I provided my patients ran contrary to what the U.S. Centers for Disease Control and other official  
27 bodies were pushing on the American people.

1 18. I believe that the care I provided was always consistent with the standard of care. I  
2 provided my patients with accurate, up-to-date information based on scientific research. I provided my  
3 patients with information necessary to comply with my informed-consent obligations. But I did not hide  
4 from my patients information and advice that was contrary to the official received wisdom when I  
5 believed that wisdom was incorrect or not best for that individual patient.

6 19. I fully intend to continue providing information about masking, treatment, diagnosis, and  
7 vaccination that is in line with my best medical advice, formulated based on my reading and experience.  
8 Patients are continuing to come to me with requests for medical advice, information, and treatment, for  
9 COVID-19, and will do so for the foreseeable future. AB 2098 jeopardizes my medical license because  
10 the medical advice I give has been contrary to the government's version of the scientific consensus.

11 20. I am also concerned about how to continue practicing under AB 2098 because of the  
12 vagueness of the government's standard. The scientific consensus is constantly changing and evolving. It  
13 is impossible for me to know with sufficient certainty what of my best medical advice concerning  
14 COVID will be deemed contrary to the so-called scientific consensus by the government as I continue to  
15 treat patients dealing with COVID questions.

16 21. Over the course of the COVID-19 pandemic, I became increasingly concerned about the  
17 public health response to COVID-19, and feared official public health guidance held the potential to  
18 cause harm.

19 22. These concerns caused me to become outspoken, as both a citizen and a medical  
20 professional, about the flaws I see in the public health response to the COVID-19 pandemic.

21 23. In particular, my expertise in family medicine caused me to be concerned about the  
22 potential harm to children that school closures and mandatory mask-wearing policies could have on  
23 young people.

24 24. I objected that isolating children, and requiring them to wear masks, was not justified by  
25 the available scientific evidence, particularly since it is widely agreed that otherwise healthy children  
26 were at very low risk of either contracting or spreading COVID-19.

27 25. I likewise objected to the broader use of mandatory masking for the adult population,  
28 pointing out the lack of evidence that otherwise-healthy adults would benefit from such face coverings.

1           26. I have also supported the use of medications such as ivermectin and hydroxychloroquine  
2 as options to treat COVID-19, pre-existing drugs long approved as safe and effective by the Food and  
3 Drug Administration. I have reviewed many studies on these drugs and find that the evidence supports  
4 their use to treat the disease.

5           27. I have also raised concerns about the new vaccines developed to combat COVID-19,  
6 given the lack of evidence that these brand-new drugs had been proven sufficiently safe and effective to  
7 be recommended, and in many cases mandated, for essentially the entire American public.

8           28. I have advocated publicly about these and other objections to federal and state COVID-19  
9 policies, including on social media, in various media interviews, and in my own published writing.

10           29. I have never been disciplined by any medical regulatory authority, had my medical license  
11 suspended, or had a complaint against me sustained for unprofessional conduct.

12           30. I believe that AB 2098 intrudes into the privacy of the doctor-patient relationship,  
13 replacing the medical judgment of the government for that of licensed professionals like myself, and  
14 chilling the speech of those who dissent from the official view.

15           31. I believe that AB 2098's codification of an official "scientific consensus," is at odds with  
16 the progress of science itself, which requires that conventional views be challenged by new theories, and  
17 that dissenters air their views for comment and criticism.

18           32. I believe AB 2098 is also at odds with the responsible practice of medicine, which  
19 requires that doctors employ individualized professional judgment as to the best course of treatment for  
20 each individual patient, rather than following official guidance to the letter in all cases.

21           33. I believe the goal of AB 2098 is to chill speech—in particular the speech of doctors like  
22 me who make a different assessment of the available evidence than the State of California.

23           34. As a medical professional, I feel it is my professional duty to continue to provide my  
24 patients with medically sound advice, but if subject to AB 2098 I will be forced to choose between  
25 providing my best medical judgment and censoring that judgment to comply with the law, because of my  
26 well-founded fear that the Board will use this new authority to threaten my medical license.

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I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Executed on December 06, 2022.

  
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Dr. Jeff Barke, M.D.