

Now, here's the DoJ offer:

Defendants now have over 35,000 doses of Comirnaty-labeled vaccine. While it is the Defendants' position that all EUA-authorized Pfizer-BioNTech doses for adults are interchangeable for the purposes of the military's vaccination requirement, in order to address Plaintiffs' assertions they were unable to obtain a Comirnaty or BLA-manufactured dose, I wanted to confirm that any of the Plaintiffs who are still required to receive the COVID-19 vaccine to satisfy the military's requirement may receive a shot from a Comirnaty-labelled vial. If any of the Plaintiffs wish to do so, please prepare a memorandum addressed to the individual's commanding officer committing to taking a shot from a Comirnaty-labeled vial. Please provide the memorandum to me and I will ensure the request is appropriately transmitted. Should any Plaintiff confirm in writing that they will take a Comirnaty-labeled dose, Defendants can ensure that Plaintiff will be administered one of those doses. If no Plaintiff is interested, please let us know that as well. As I previously mentioned, this is not intended as an offer of compromise and we anticipate informing the Court of the offer and any response.

Okay – there's the DoJ's offer. Now let me tell you why I recommend that you categorically reject it.

First, notice how curiously it's worded. You're not being offered "Comirnaty" – you're being offered one of 35,000 doses of "Comirnaty-labeled vaccine." Huh. And notice how consistently that term is applied throughout – "Comirnaty labelled vial" appears twice, along with "Comirnaty-labeled dose." Second, I know that there are already a lot of questions about the *provenance* of any shots the DoD and all this email offer does is raise more questions, particularly since the DoD has been making claims in litigation about "BLA compliant" doses, which has no meaning and has already been rejected in *Coker v. Austin*. Without belaboring this whole offer, taking this shot would be a complete compromise of our – your – litigation position. But there's the offer – and let's handle responses by exception. Meaning: unless I hear from you specifically asking to accept the DoJ's offer, I will presume that the answer is "No, thank you." (I don't want or need my inbox swamped by "hell no's" or other similar responses or emojis, but you can make your feelings known to some of your "reps" who will get me the word). We've got more folks coming on board soon. We have a right to amend by a certain date and we'll do so in order to add all of the folks who heard late and wanted to get on board. A lot happening over the next week, so likely no update until late next week. In the meantime... Take care, try to have a daily gratitude practice, be kind to yourself and each other, and... make sure you get your docs uploaded to Knack.

*Fortitudine.*

Posted to TheObjectLesson.com  
Dale Saran's Blog