

Lead Case No. 21-7000  
(Member Case Nos. 21-4088, 21-4097)

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**UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

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IN RE: MCP No. 165; OSHA RULE  
ON COVID-19 VACCINATION AND TESTING

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On Petitions for Review of an Emergency Temporary Standard from the  
Occupational Safety and Health Administration.

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**JOINDER IN PETITIONS FOR INITIAL HEARING *EN BANC***

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David A. Cortman  
John J. Bursch  
Matthew S. Bowman  
Frank H. Chang  
ALLIANCE DEFENDING FREEDOM  
440 First Street, NW, Suite 600  
Washington, DC 20001  
(202) 393-8690  
dcortman@ADFlegal.org  
jbursch@ADFlegal.org  
mbowman@ADFlegal.org  
fchang@ADFlegal.org

Ryan L. Bangert  
Ryan J. Tucker  
ALLIANCE DEFENDING FREEDOM  
15100 N 90th Street  
Scottsdale, AZ 85260  
(480) 444-0020  
rbangert@ADFlegal.org  
rtucker@ADFlegal.org

*Counsel for Petitioners*

**JOINDER IN PETITIONS FOR INITIAL HEARING EN BANC**

Sioux Falls Catholic Schools d/b/a Bishop O’Gorman Catholic Schools (“Bishop O’Gorman”), The King’s Academy, Cambridge Christian School, Home School Legal Defense Association, Inc. (“HSLDA”), and Christian Employers Alliance (“CEA”) (collectively, “Religious Petitioners”) hereby submit this joinder.<sup>1</sup>

1. Religious Petitioners fully join in the following petitions for initial hearing *en banc* currently pending before the Court. *The S. Baptist Theological Seminary v. OSHA*, No. 21-4033 (6th Cir. Nov. 17, 2021) (ECF No. 21) (“Seminaries’ Pet.”); *Bentkey Servs., LLC d/b/a The Daily Wire v. OSHA*, No. 21-4027 (6th Cir. Nov. 17, 2021) (ECF No. 32) (“The Daily Wire Pet.”); *Phillips Mfg. & Tower Co. v. U.S. Dep’t of Labor*, No. 21-4028 (6th Cir. Nov. 17, 2021) (ECF No. 20) (“Phillips Pet.”); *see also In re OSHA Rule*, No. 21-7000 (6th Cir. Nov. 22, 2021) (ECF No. 14) (“States’ Pet.”).

2. These petitions ask whether the OSHA mandate “exceeds OSHA’s constitutional and statutory authority.” Seminaries’ Pet. 1; The Daily Wire Pet. 1 (same); Phillips Pet. 1 (questioning “[t]he validity of the Vaccine Mandate under the Constitution and the OSH Act”); States’ Pet. 1 (whether 29 U.S.C. § 655(c) permits the mandate). This is “a question of exceptional importance.” Fed. R. App. P. 35(a). All Religious Petitioners—either for themselves or on behalf of their member

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<sup>1</sup> Bishop O’Gorman, CEA, and HSLDA were docketed in this Court as No. 21-4088. The King’s Academy and Cambridge Christian School were docketed in this Court as No. 21-4097.

organizations—likely will raise or join in similar arguments challenging the validity of the OSHA mandate and the scope of OSHA’s authority.

3. Critically, Religious Petitioners also agree with the Seminaries that this case presents the exceptionally important issue of the “whether OSHA’s mandate violates the First Amendment and the Religious Freedom Restoration Act (‘RFRA’).” Seminaries’ Pet. 1. Religious Petitioners include a consolidated Catholic school system, two prominent private Christian schools (Bishop O’Gorman, The King’s Academy, and Cambridge Christian School), and a faith-based non-profit organization (HSLDA) that are adversely affected by the mandate. These Religious Petitioners likely will raise or join in First Amendment and RFRA arguments. CEA is a membership organization and represents the interests of religious non-profit and for-profit organizations that are adversely affected by the mandate. CEA’s non-profit members will likely raise or join in all the arguments of the other Religious Petitioners. CEA’s for-profit members will likely raise or join arguments concerning their religious objections to coercing their employees over COVID-19 vaccination.

4. For ease of the Court’s review, and because of the commonality of issues concerning the mandate’s substantial burden on their sincere religious beliefs and interference with religious missions, autonomy, and free exercise, Religious Petitioners will begin filing jointly with the Seminaries going forward.

Respectfully submitted,

/s/ Ryan L. Bangert

David A. Cortman  
John J. Bursch  
Matthew S. Bowman  
Frank H. Chang  
ALLIANCE DEFENDING FREEDOM  
440 First Street, NW, Suite 600  
Washington, DC 20001  
(202) 393-8690  
dcortman@ADFlegal.org  
jbursch@ADFlegal.org  
mbowman@ADFlegal.org  
fchang@ADFlegal.org

Ryan L. Bangert  
Ryan J. Tucker  
ALLIANCE DEFENDING FREEDOM  
15100 N 90th Street  
Scottsdale, AZ 85260  
(480) 444-0020  
rbangert@ADFlegal.org  
rtucker@ADFlegal.org

*Counsel for Petitioners*

Dated: November 24, 2021

## CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Fed. R. App. P. 35(b)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and 6th Cir. R. 32(b), this document contains 458 words according to the word count function of Microsoft Word 365.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Century Schoolbook font.

*/s/ Ryan L. Bangert*

Date: November 24, 2021

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 24, 2021, a true and accurate copy of the foregoing was electronically filed with the Court using the CM/ECF system. Service on counsel for all parties will be accomplished through the Court's electronic filing system.

*/s/ Ryan L. Bangert*

Date: November 24, 2021