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16 **UNITED STATES DISTRICT COURT**  
 17 **DISTRICT OF ARIZONA**

18 Mark Brnovich, et al.,  
 19 Plaintiffs,  
 20 v.  
 Joseph R. Biden, et al.  
 21 Defendants.

Case No: 2:21-cv-01568-PHX-MTL  
**REPLY TO DEFENDANT CITY OF  
 PHOENIX’S RESPONSE TO  
 MOTION FOR PRELIMINARY  
 INJUNCTION**

1 Plaintiffs Phoenix Law Enforcement Association (“PLEA”) and United Phoenix  
2 Firefighters Association Local 493 (“Local 493”) hereby reply to Defendant City of  
3 Phoenix’s Response to Motion for Preliminary Injunction, Doc. 109, and request that the  
4 Motion for Preliminary Injunction be granted against the City because the requested relief  
5 would necessarily apply to it.

6 The City is included in the complaint as a relief defendant only as it had  
7 implemented its own employee vaccination requirement in November 2021 citing  
8 President Biden’s Executive Order 14042 and the Safer Federal Workforce Task Force’s  
9 guidance for federal contractors. *See* Doc. 70-10. Following the nationwide injunction of  
10 the federal contractor mandate, the City paused implementation of its employee  
11 vaccination requirement. Nonetheless, while apparently not a present party to a federal  
12 contract that comes within the purview of the Motion for Preliminary Injunction, the City  
13 has continued to encourage its employees to complete medical and/or religious exemption  
14 request forms in the event the injunction is lifted. A copy of the notification advising  
15 employees of the pause to the vaccination requirement is attached as Exhibit 1. This would  
16 suggest that the City intends to implement the federal contractor mandate if the nationwide  
17 injunction is lifted and one is not issued in this case.

18 For this reason, Plaintiffs PLEA and Local 493 request that any injunction or  
19 declaratory relief granted in this case be issued against the City in addition to the federal  
20 Defendants. An amended proposed order including the relief requested against the City has  
21 been filed herewith.

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RESPECTFULLY SUBMITTED this 15th day of December 2021.

**NAPIER, BAILLIE, WILSON, BACON & TALLONE, P.C.**

By /s/ Michael Napier  
Michael Napier  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 15, 2021, I electronically transmitted the attached document to the Clerk’s Office using the ECF System for filing and caused a copy to be electronically transmitted to all ECF registrants.

By: /s/ Michael Napier

# EXHIBIT 1



## IMPORTANT EMPLOYEE INFORMATION

### COVID-19 Vaccine Requirement Paused

December 7, 2021

To: **All Employees**

Since it was first announced last month that the COVID-19 vaccine would be required for all city of Phoenix employees by January 18, 2022, there have been several developments, including multiple legal challenges. This morning a federal judge issued an injunction temporarily halting the COVID-19 vaccine mandate for federal contractors.

Because of these developments, **the city is pausing the implementation of this federal vaccine requirement** in order to allow more time for the court cases to resolve and to further explore our options regarding implementation of the requirement, should it stand.

While we support the rights of employees to make individual health choices, we must balance that with the rights of every employee to a safe work environment as well as with the ability to provide necessary services, some of which are provided through Federal contracts.

Although the implementation of the vaccine requirement is on hold, employee safety remains top priority and we encourage employees to take advantage of the free COVID vaccine, booster shot, and testing options that are currently available.

- The **Moderna** and **Johnson & Johnson** vaccines are available for city of Phoenix employees, 18 and older. Please call [480-968-1886](tel:480-968-1886) to schedule your appointment at the Healthwaves office near Sky Harbor Airport, 1615 W. University Drive, Tempe, Suite 137.
- Additional vaccine locations can be found by visiting the [ADHS Find COVID-19 Vaccines](#). You can learn more by visiting the [COVID-19 Vaccine News & Resources](#) website.

If you are interested in being tested for COVID-19, city employees can schedule an appointment to receive a free COVID-19 PCR (live virus) test at the following locations:

- At the city of Phoenix Employee Healthcare Care Clinic, Monday - Friday, 7 a.m. – 5:40 p.m., by appointment only. The city of Phoenix Employee Healthcare Clinic is located inside the Banner Urgent Care in downtown Phoenix at 1 N. Central Ave. (corner of First and Washington streets). This is a walk-in test site. Parking is available. Employees can schedule an appointment at [https://www.clockwisemd.com/hospitals/3901/appointments/schedule\\_visit](https://www.clockwisemd.com/hospitals/3901/appointments/schedule_visit).
- At city of Phoenix City Hall located at 200 W. Washington Street. Testing is available on Wednesdays by calling the scheduling line at [602-534-0693](tel:602-534-0693), Monday through Friday from 8 a.m. to 5 p.m. This site has testing available for employees and members of their household (ages 2 and up) with no symptoms. The city will validate up to two hours of parking in the 305 Garage (southwest corner of 3<sup>rd</sup> Ave. and Washington St.) for employees who don't work downtown.

Remember, all city employees are eligible to receive a **one-time Vaccine Safety Award of \$75** through January 18, 2022, when they submit a completed vaccine card showing the dates of all required doses for the type of vaccine received.

We also continue to encourage employees who have a medical or religious reason not to be vaccinated to request a religious or medical accommodation by submitting a completed [religious](#) or [medical](#) accommodation form and any required supporting documentation to [vaccine.request@phoenix.gov](mailto:vaccine.request@phoenix.gov). Staff from the Human Resources, Equal Opportunity, and Law departments will continue to evaluate the requests even while implementation is paused.

We will continue to provide updates on the vaccine requirement when there are any new developments. Please reach out to your HR liaison with any questions. Thank you.

1 **UNITED STATES DISTRICT COURT**  
2 **DISTRICT OF ARIZONA**

3 Mark Brnovich, in his official capacity as  
4 Attorney General of Arizona; *et al.*,

5 Plaintiffs,

6 v.

7 Joseph R. Biden in his official capacity as  
8 President of the United States; *et al.*,

9 Defendants.

Case No: 2:21-cv-01568-PHX-MTL

**[PROPOSED] ORDER**

10 Having considered the Plaintiffs' Third Motion for a Preliminary Injunction, **IT IS**  
11 **HEREBY ORDERED** granting the motion.

12 **IT IS FURTHER ORDERED** that:

13 1. Defendants shall not impose any COVID-19 vaccination requirement on any  
14 federal contractor or sub-contractor.

15 2. Defendants shall not impose any COVID-19 vaccination requirement on any  
16 federal employee.

17 3. Defendants shall not include any clauses related to COVID-19 or vaccinations in  
18 any contract entered into with any federal contractor or sub-contractor, nor shall  
19 Defendants enforce any such clauses in any contracts already entered into.

20 4. Defendants shall not impose any COVID-19-related procurement requirements  
21 without first following the required notice-and-comment procedures of the Procurement  
22 Policy Act.

23 5. Defendant City of Phoenix shall not impose any COVID-19 vaccination  
requirement on its employees.