

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

Case No. 4:21-cv-01236-O

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

MOTION FOR CLASS CERTIFICATION

Plaintiffs United States Navy SEALs 1-3 (“SEALs 1-3”) and United States Navy Explosive Ordnance Disposal Technician 1 (“EOD 1”) (“Named Plaintiffs”), on behalf of themselves and all others similarly situated, file this Motion for Class Certification and respectfully request that the Court enter an order certifying the following class and subclasses under Rule 23(b)(2) of the Federal Rules of Civil Procedure:

- (a) a class of all members of the United States Navy who are subject to the Navy’s COVID-19 Vaccine Mandate and who have submitted a Religious Accommodation request concerning the Navy’s COVID-19 Vaccine Mandate (“Navy Class”);
- (b) a subclass of all members of the Navy Class who are now or will be assigned to Naval Special Warfare or Naval Special Operations, who are subject to the Navy’s COVID-

19 Vaccine Mandate, and who have submitted a Religious Accommodation request concerning the Navy's COVID-19 Vaccine Mandate ("Naval Special Warfare/Operations Subclass");

- (c) a subclass of all members of the Navy Class who are now or will be United States Navy SEALs, who are subject to the Navy's COVID-19 Vaccine Mandate, and who have submitted a Religious Accommodation request concerning the Navy's COVID-19 Vaccine Mandate ("Navy SEALs Subclass").

Plaintiffs further request that the Court enter an order appointing Plaintiffs' counsel as class counsel under Rule 23(g) of the Federal Rules of Civil Procedure.

Respectfully submitted this 25th day of January, 2022.

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** Not yet admitted to the D.C. Bar, but admitted to practice law in Florida. Practicing law in D.C. pursuant to D.C. Court of Appeals Rule 49(c)(8) under the supervision of an attorney admitted to the D.C. Bar.

CERTIFICATE OF CONFERENCE

Plaintiffs' counsel emailed Defendants' counsel on January 25, 2022 regarding this motion. As of filing, Defendants' counsel has not responded or otherwise indicated whether Defendants are opposed or unopposed to the relief requested in the motion.

/s/ Andrew B. Stephens
Andrew B. Stephens
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2022, I electronically filed the foregoing document through the Court's ECF system, which automatically notifies counsel of record for each party.

/s/ Andrew B. Stephens
Andrew B. Stephens
Counsel for Plaintiffs

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U.S. NAVY SEALs 1-3, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

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LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

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[PROPOSED] ORDER GRANTING MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

On January 25, 2022, Plaintiffs filed this Motion for Class Certification and Appointment of Class Counsel. Having considered Plaintiffs' motion, any responses thereto filed by the Defendants, and any replies thereto filed by Plaintiffs, the Court finds that the requirements of Fed. R. Civ. P. 23 are satisfied and the motion should be granted.

IT IS HEREBY ORDERED:

1. Plaintiffs' Motion for Class Certification is GRANTED.

2. This action shall proceed as a class action with the members of the Class and

Subclasses consisting of:

All members of the United States Navy who are subject to the Navy's COVID-19 Vaccine Mandate and who have submitted a Religious Accommodation request concerning the Navy's COVID-19 Vaccine Mandate ("Navy Class");

All members of the Navy Class who are now or will be assigned to Naval Special Warfare or Naval Special Operations, who are subject to the Navy's COVID-19 Vaccine Mandate, and who have submitted a Religious Accommodation request concerning the Navy's COVID-19 Vaccine Mandate ("Naval Special Warfare/Operations Subclass"); and

All members of the Navy Class who are now or will be United States Navy SEALs, who are subject to the Navy's COVID-19 Vaccine Mandate, and who have submitted a Religious Accommodation request concerning the Navy's COVID-19 Vaccine Mandate ("Navy SEALs Subclass").

3. The following Named Plaintiffs are appointed as class representatives of the Navy

Class and the Naval Special Warfare/Operations Subclass:

- a. United States Navy SEAL 1;
- b. United States Navy SEAL 2;
- c. United States Navy SEAL 3; and
- d. United States Navy Explosive Ordnance Disposal Technician 1.

4. The following Named Plaintiffs are appointed as class representatives of the Navy

SEALs Subclass:

- a. United States Navy SEAL 1;
- b. United States Navy SEAL 2; and
- c. United States Navy SEAL 3.

5. The following attorneys are appointed as co-counsel for the class:

- a. Hacker Stephens LLP; and
- b. attorneys from First Liberty Institute, a non-profit organization with its office in Plano, Texas.

SO ORDERED this _____ day of _____ 2022.

REED O'CONNOR
UNITED STATES DISTRICT JUDGE