

Nos. 21-7000 (lead), 21-4080, 21-4117

**In the United States Court of Appeals
for the Sixth Circuit**

IN RE: MCP No. 165, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
RULE ON COVID-19 VACCINATION AND TESTING, 86 FED. REG. 61402

On Petition for Review
from the Occupational Safety and Health Administration

**TWENTY-SIX BUSINESS ASSOCIATION PETITIONERS'
JOINDER IN RESPONSE TO
THE GOVERNMENT'S MOTION TO DISMISS**

Katherine C. Yarger
LEHOTSKY KELLER LLP
700 Colorado Blvd. # 407
Denver, CO 80206

Joshua P. Morrow
LEHOTSKY KELLER LLP
919 Congress Ave.
Austin, TX 78701

Steven P. Lehotsky
Scott A. Keller
Michael B. Schon
LEHOTSKY KELLER LLP
200 Massachusetts Ave. NW
Washington, DC 20001
(512) 693-8350
steve@lehotskykeller.com

The Business Association Petitioners join the responses filed by the Heritage Foundation (Dkt. 409) and the Religious Petitioners (Dkt. 410) to the Respondents' motion to dismiss (Dkt. 408). In light of OSHA's revocation of the ETS, the Business Associations do not oppose the Respondents' motion to dismiss the petitions for review, provided that the Court vacates the December 17, 2021 Opinion (Dkt. 387) under *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39-40 (1950). See Religious Petitioners' Joint Response To The Government's Motion to Dismiss (Dkt. 410) at 5-6.

Dated: February 4, 2022

Respectfully submitted,

Katherine C. Yarger
LEHOTSKY KELLER LLP
700 Colorado Blvd. # 407
Denver, CO 80206

Joshua P. Morrow
LEHOTSKY KELLER LLP
919 Congress Ave.
Austin, TX 78701

/s/ Steven P. Lehotsky
Steven P. Lehotsky
Scott A. Keller
Michael B. Schon
LEHOTSKY KELLER LLP
200 Massachusetts Ave. NW
Washington, DC 20001
(512) 693-8350
steve@lehotskykeller.com

Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE WITH RULE 27(D)(2)

This Response complies with: (1) the type-volume limitation of Federal Rule of Appellate Procedure Rule 27(d)(2)(A) because it contains 95 words, excluding the parts of the document exempted by Rule 27(a)(2)(B); and (2) the typeface requirements of Rule 27(d)(1)(E) because it has been prepared in a proportionally spaced typeface (14-point Palatino Linotype) using Microsoft Word (the same program used to calculate the word count).

/s/ Steven P. Lehotsky
Steven P. Lehotsky
LEHOTSKY KELLER LLP
200 Massachusetts Ave. NW
Washington, DC 20001
(512) 693-8350
steve@lehotskykeller.com
Attorney for Petitioners

CERTIFICATE OF SERVICE

On February 4, 2022, this Response was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court. Counsel further certifies that: (1) any required privacy redactions have been made in compliance with Federal Rule of Appellate Procedure 25(a)(5); and (2) the document has been scanned with the most recent version of a commercial virus scanning program and is free of viruses. No paper copies were filed, per this Court's Rule 25(a)(3).

/s/ Steven P. Lehotsky
Steven P. Lehotsky
LEHOTSKY KELLER LLP
200 Massachusetts Ave. NW
Washington, DC 20001
(512) 693-8350
steve@lehotskykeller.com
Attorney for Petitioners