



ATTORNEY GENERAL OF MISSOURI

ERIC SCHMITT

March 3, 2022

VIA CM/ECF

Mr. Michael Gans
Clerk of the Court
U.S. Court of Appeals for the Eighth Circuit
Thomas F. Eagleton Federal Courthouse
111 South 10th Street, Room 24.329
St. Louis, MO 63102

RE: *State of Missouri, et al. v. Joseph R. Biden, Jr. et al.*, No. 21-3725
Supplemental Authority under Rule 28(j)

Dear Mr. Gans:

With respect to the Occupational Health and Safety Administration's vaccine mandate for employers with more than 100 employees, the Supreme Court wrote that "the most noteworthy action concerning the vaccine mandate by either House of Congress has been a majority vote of the Senate disapproving the regulation on December 8, 2021." *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin.*, 142 S. Ct. 661, 666 (2022) (per curiam) (citing S.J. Res. 29, 117th Cong., 1st Sess. (2021)).

This is now equally true of CMS's vaccine mandate for healthcare workers, which is challenged in this case. *See* 86 Fed. Reg. 61,555-61,627 ("Mandate"). On March 2, 2022, the United States Senate voted 49-44 to adopt a formal joint resolution disapproving the CMS Mandate under the Congressional Review Act. *See* S.J. Res. 32, 117th Cong., 2d Sess. (2022) (attached as Exhibit A).

Sincerely,

/s/ D. John Sauer

D. John Sauer, MO58721

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Counsel for Appellees

cc: Counsel for Appellants (via electronic filing)

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2022, the foregoing was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit using the CM/ECF system, which will serve all counsel of record.

/s/ D. John Sauer

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this letter is written in Times New Roman 14-point font, and the body of this letter contains 145 words as determined by the word-count feature of Microsoft Word. This letter has been scanned for viruses and is virus-free.

/s/ D. John Sauer

Calendar No. 291117TH CONGRESS
2^D SESSION**S. J. RES. 32**

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services relating to “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination”.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2021

Mr. MARSHALL (for himself, Mr. McCONNELL, Mr. CRAPO, Mr. BURR, Mr. CRAMER, Mr. MORAN, Mr. BARRASSO, Mr. LEE, Mr. RUBIO, Mr. INHOFE, Mrs. HYDE-SMITH, Mr. HOEVEN, Mr. DAINES, Ms. LUMMIS, Mr. WICKER, Mr. LANKFORD, Mr. HAWLEY, Mr. BRAUN, Mr. PAUL, Mr. RISCH, Mr. TUBERVILLE, Mr. CRUZ, Mr. TILLIS, Mrs. BLACKBURN, Mr. SULLIVAN, Mr. SCOTT of Florida, Ms. ERNST, Mr. SCOTT of South Carolina, Mr. ROUNDS, Mr. COTTON, Mr. SHELBY, Mr. BOOZMAN, Mr. BLUNT, Mr. JOHNSON, Mr. HAGERTY, Mr. KENNEDY, and Mr. GRASSLEY) introduced the following joint resolution; which was read twice and referred to the Committee on Finance

MARCH 1, 2022

Committee discharged by petition, pursuant to 5 U.S.C. 802(c), and placed on the calendar

JOINT RESOLUTION

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services relating to “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination”.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That Congress disapproves the rule submitted by the Cen-
4 ters for Medicare & Medicaid Services relating to “Medi-
5 care and Medicaid Programs; Omnibus COVID-19 Health
6 Care Staff Vaccination” (86 Fed. Reg. 61555 (November
7 5, 2021)), and such rule shall have no force or effect.

Calendar No. 291

117TH CONGRESS
2^D SESSION
S. J. RES. 32

JOINT RESOLUTION

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services relating to “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination”.

MARCH 1, 2022

Committee discharged by petition, pursuant to 5 U.S.C.
802(e), and placed on the calendar