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April 20, 2022

Honorable Lyle W. Cayce
Clerk of the Court
U.S. Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: *Feds for Medical Freedom v. Biden*, No. 22-40043

Mr. Cayce:

On April 20, 2022, the government filed a Rule 28(j) letter regarding the Fourth Circuit's recent decision in *Rydie v. Biden*, No. 21-2359 (4th Cir. Apr. 19, 2022). The government claims that *Rydie* provides a basis for issuing this Court's mandate immediately or granting a stay of the preliminary injunction below. Those requests should be denied for the reasons in Plaintiffs-Appellees' response to the government's prior motion. *See* Opposition to Emergency Motion (5th Cir. Apr. 13, 2022).

Rydie does not change the conclusion that the government's motion should be denied. *Rydie* is an unpublished opinion in a non-argued case. The Fourth Circuit has substantially different precedent than this Court regarding the Civil Service Reform Act, implied preclusion, and unconstitutional coercion. Moreover, *Rydie* includes the same analytical missteps as the majority opinion in this case, as identified by Judge Barksdale's dissent and as will be explained in further detail in Plaintiffs-Appellees' petition for rehearing en banc, a process that the government seeks to short-circuit.

The Court should deny the government's motion.

Respectfully,

Page 2

/s/ R. TRENT MCCOTTER

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