

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

FAMILY RESEARCH COUNCIL ACTION, INC.,  
MATTHEW KRAUSE, DONNA BRAMSON, and S.P.,  
a minor, by his next friend and father, Anthony Perkins,

*Plaintiffs,*

v.

JOSEPH R. BIDEN, JR., in his official capacity  
as President of the United States, U.S. DEPARTMENT OF  
TRANSPORTATION, PETER P. BUTTIGIEG, in his official  
capacity as Secretary of Transportation, FEDERAL  
AVIATION ADMINISTRATION, STEPHEN M. DICKSON,  
in his official capacity as Administrator of the FAA, U.S.  
DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
XAVIER BECERRA, in his official capacity as Secretary of  
Health and Human Services, CENTERS FOR DISEASE  
CONTROL AND PREVENTION, ROCHELLE P.  
WALENSKY, in her official capacity as Director of the CDC,  
SHERRI A. BERGER, in her official capacity as Chief of Staff  
of the CDC, U.S. DEPARTMENT OF HOMELAND  
SECURITY, ALEJANDRO MAYORKAS, in his official  
capacity as Secretary of Homeland Security,  
TRANSPORTATION SECURITY ADMINISTRATION,  
DAVID P. PEKOSKE, in his official capacity as Administrator  
of the TSA, and the UNITED STATES OF AMERICA,

*Defendants.*

Civil Action No.:  
4:22-cv-00209-O

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65 and Local Civil Rule 7.1, Plaintiffs respectfully move that the Court issue a preliminary injunction enjoining Defendants from enforcing its COVID-19 Mask Mandate. Defendants here have imposed a mandate for almost every person—with certain narrow exemptions not relevant here—to wear a mask whenever inside

an airport or aboard a commercial airplane. But the evidence in hand demonstrates that (1) masks are not effective at stopping the spread of COVID-19, (2) wearing face masks can carry downside risks, especially for children, and (3) people are at extremely low risk of contracting COVID-19 on an airplane in any event. The Mask Mandate is therefore arbitrary and capricious.

Plaintiffs in this case—including an association representing over 26,000 members—regularly fly on airplanes. They do not wish to wear masks on airplanes and in airports, and would not do so were they not required to do so by the Mask Mandate. With over 26,000 members represented in this case, only a nationwide injunction can provide relief.

Accordingly, to prevent irreparable injury, the Court should grant this Motion and preliminarily enjoin Defendants from requiring the wearing of masks on airplanes and in airports.

March 31, 2022

Respectfully submitted,

/s/ Kenneth A. Klukowski

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*\*Pro hac vice* application forthcoming

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

On March 31, 2022, I filed the foregoing document with the clerk of court for the United States District Court, Northern District of Texas, by using the Court's CM/ECF filing system. I hereby certify that I have served the document on all counsel of record by a manner authorized by Federal Rule of Civil Procedure 5(b)(2).

Additionally, I communicated both by telephone and email with Stephen M. Pizzi who informed me that he was counsel for Defendants, and that he would be representing Defendants in this matter.

Notice and a copy of the foregoing has been provided to this attorney via email and by depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following:

Stephen M. Pezzi  
United States Department of Justice  
Civil Division - Federal Programs Branch  
1100 L Street NW  
Washington, DC 20005  
stephen.pezzi@usdoj.gov

/s/ Kenneth A. Klukowski  
Kenneth A. Klukowski  
*Attorney for Plaintiffs*

**CERTIFICATE OF CONFERENCE**

On March 31, 2022, I conferred with Stephen Pezzi, attorney for Defendants regarding the relief sought in the foregoing motion. Agreement could not be reached because Defendants are opposed to the relief sought. Accordingly, the foregoing is presented to the Court as opposed.

/s/ Kenneth A. Klukowski  
Kenneth A. Klukowski  
*Attorney for Plaintiffs*

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**[PROPOSED] ORDER**

Upon consideration of Plaintiffs' Motion for Preliminary Injunction, and the entire record herein, the Court finds that the Plaintiffs are likely to succeed on the merits of their claims under the Administrative Procedure Act and that Plaintiffs will suffer irreparable harm absent an injunction. Accordingly, it is hereby:

ORDERED that Plaintiffs’ Motion for Preliminary Injunction is GRANTED; and it is

ORDERED that Defendants are hereby enjoined from requiring any person to wear a mask on the face while on a commercial aircraft; and it is

ORDERED that Defendants are hereby enjoined from requiring any person to wear a mask on the face while in an airport.

SO ORDERED.

DATE: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge