

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

NAVY SEAL # 1, et al.,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States, et al.,

Defendants.

Case No. 8:21-cv-02429-SDM-TGW

**DEFENDANTS' MOTION FOR LEAVE TO RESPOND TO PLAINTIFFS'
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF CLASS
CERTIFICATION AND CLASSWIDE PRELIMINARY INJUNCTION**

On April 26, 2022, Plaintiffs filed a “Supplemental Memorandum in Support of Classwide Preliminary Injunction.” ECF No. 176. The supplemental memorandum raises several new arguments in support of class certification in this case. In particular, Plaintiffs’ memorandum raises a number of arguments addressing another district court’s class certification order and class-wide preliminary injunction.

Defendants respectfully move for leave to file a response of no more than twenty pages to the points raised in the supplemental memorandum, ECF No. 176, and for leave to file the response no later than May 23, 2022. Specifically, Defendants intend to respond to Plaintiffs’ arguments that (1) the proposed class is ascertainable because the Navy knows and can easily ascertain the number of Service Members who have submitted a religious accommodation request; (2) that the proposed class purportedly includes 24,817 Service Members; (3) that the commonality requirement is met

because proposed class members purportedly suffered the same injury; (4) that Plaintiffs satisfy the typicality requirement merely because they seek relief on RFRA and First Amendment grounds; (5) that Rule 23(b)(2) is satisfied because class members have been harmed in the same way; (6) that the Court should certify a redundant class; (7) that the first filed rule compels handling in this Court; and (8) that Plaintiffs have demonstrated class-wide irreparable harm. Defendants respectfully submit that the proposed response will assist the Court in deciding the pending motion for class certification.

Local Rule 3.01(g) Certification

Defense counsel conferred with Plaintiffs' counsel by email. When first approached by email on May 5, 2022, Plaintiffs' counsel did not oppose Defendants' request to file a response. By subsequent emails dated May 11, 2022 and May 12, 2022, Defendants have requested Plaintiffs' position on their request to file the response by May 23, 2022, but Defendants have not yet received a response. Pursuant to Local Rule 3.02(g), Defendants will supplement the motion with a statement certifying whether the Plaintiffs object to the proposed deadline after either contact or expiration of the three days.

Dated: May 13, 2022

Respectfully submitted,

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