

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, *et al.*,

*Plaintiffs,*

v.

JOSEPH R. BIDEN, JR., *et al.*,

*Defendants.*

Case No: 5:21-cv-01136-F

**PLAINTIFFS' NOTICE OF NEW AUTHORITY**

On June 27, 2022, the U.S. Court of Appeals for the Fifth Circuit issued an order granting rehearing *en banc* and vacating the panel opinion in *Feds for Medical Freedom v. Biden*, No. 22-40043. *See* Ex. 1. The now-vacated Fifth Circuit panel opinion dated April 7, 2022 (and decided by a 2-1 vote), had set aside the nationwide injunction issued by the U.S. District Court for the Southern District of Texas enjoining the vaccine mandate imposed on federal employees pursuant to Executive Order 14043. *See Feds for Medical Freedom v. Biden*, No. 3:21-cv-356, 2022 WL 188329 (S.D. Tex. Jan. 21, 2022), *vacated and remanded*, 30 F.4th 503 (5th Cir. 2022), *reh'g en banc granted, opinion vacated*, No. 22-40043, 2022 WL 2301458 (5th Cir. June 27, 2022). The Fifth Circuit's new order therefore has the effect of restoring the district court's nationwide injunction. The *en banc* court will hear oral argument the week of September 12, 2022.

Respectfully submitted,

Zach West

*Acting Solicitor General*

OFFICE OF THE ATTORNEY GENERAL

OF THE STATE OF OKLAHOMA

313 NE 21st Street

Oklahoma City, OK 73105

(405) 521-3921

zach.west@oag.ok.gov

/s/ Gene C. Schaerr

Gene C. Schaerr\*

H. Christopher Bartolomucci\*

Brian J. Field\*

SCHAERR | JAFFE LLP

1717 K Street NW, Suite 900

Washington, DC 20006

(202) 787-1060

gschaerr@schaerr-jaffe.com

cbartolomucci@schaerr-jaffe.com

bfield@schaerr-jaffe.com

\* Admitted *pro hac vice*

*Counsel for Plaintiffs The State of  
Oklahoma; J. Kevin Stitt, Governor of  
Oklahoma; John M. O'Connor, Attorney  
General of Oklahoma; and 10 Oklahoma  
National Guard Members*

Dated: June 29, 2022

# **EXHIBIT 1**

# United States Court of Appeals for the Fifth Circuit

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No. 22-40043

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FEDS FOR MEDICAL FREEDOM; LOCAL 918, AMERICAN  
FEDERATION OF GOVERNMENT EMPLOYEES; HIGHLAND  
ENGINEERING, INCORPORATED; RAYMOND A. BEEBE, JR.; JOHN  
ARMBRUST; ET AL.,

*Plaintiffs—Appellees,*

*versus*

JOSEPH R. BIDEN, JR., *in his official capacity as President of the United  
States*; THE UNITED STATES OF AMERICA; PETE BUTTIGIEG, *in  
his official capacity as Secretary of Transportation*; DEPARTMENT OF  
TRANSPORTATION; JANET YELLEN, *in her official capacity as Secretary  
of Treasury*; ET AL.,

*Defendants—Appellants.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 3:21-CV-356

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ON PETITION FOR REHEARING EN BANC

(Opinion April 7, 2022, 5 CIR., 2022 , 30 F.4th 503)

Before RICHMAN, *Chief Judge*, and JONES, SMITH, STEWART, DENNIS, ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON, COSTA, WILLETT, HO, DUNCAN, ENGELHARDT, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:

A member of the court having requested a poll on the petition for rehearing en banc, and a majority of the circuit judges in regular active service and not disqualified having voted in favor,

IT IS ORDERED that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs. Pursuant to 5th Circuit Rule 41.3, the panel opinion dated April 7, 2022, is VACATED.



Sincerely,

LYLE W. CAYCE, Clerk



By:

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Geralyn A. Maher  
Calendar Clerk  
504-310-7630

Mr. R. Trent McCotter  
Mr. Casen Ross

cc: Mr. Lowell Harrison Becraft Jr.  
Ms. Sarah Wendy Carroll  
Mr. David Anthony Dalia  
Mr. Gene Patrick Hamilton  
Mr. Jared Kelson  
Mr. Jordan E Pratt  
Mr. Charles Wylie Scarborough  
Mr. John Clay Sullivan  
Mr. John Julian Vecchione  
Mr. Daniel Winik