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Class-Action Plaintiffs in Fed. Employee Vaccine Mandate Case File *Amicus* Brief in Fifth Circuit Appeal

Feds for Medical Freedom, et al. v. Biden, Jr., et al.

Washington, DC (February 24, 2022) - Plaintiffs from NCLA’s class-action lawsuit, [James Joseph Rodden, et al. v. Dr. Anthony Fauci, et al.](#), have submitted a [brief amici curiae](#) in a similar case seeking to overturn the Federal Employee Vaccine Mandate. Class representatives argue in the brief that the U.S. Court of Appeals for the Fifth Circuit should affirm the nationwide injunction granted by the U.S. District Court for the Southern District of Texas in *Feds for Medical Freedom, et al. v. Biden, Jr., et al.*, currently on an expedited oral argument schedule before the Fifth Circuit. Yesterday, Southern District Judge Jeffrey Brown issued a [stay](#) in *Rodden* until the Fifth Circuit rules on the injunction in *Feds for Medical Freedom*.

The *Rodden* Plaintiffs are all federal civilian employees with natural immunity to Covid-19 who are facing an order by their employer to undergo a medical procedure that is unnecessary for them and of no use to any legitimate need of their employer. The President of the United States and the agencies he directs have no power to direct employees’ personal medical decisions, particularly when the vaccines being required do not prevent transmission of Covid-19 to other employees and are less efficacious than natural immunity in preventing reinfection with Covid-19. No evidence indicates that those with naturally acquired immunity pose a heightened threat to anyone.

The *Rodden* Plaintiff *amici* have an even stronger case on the balance of harms analysis than the Appellees in *Feds for Medical Freedom v. Biden*, as the *amici* all have acquired natural immunity to Covid-19. So, any government claim of greater reinfection risk or worse health effects to them is counterfactual. In addition, the current injunction protects the entire class, and its nationwide scope is reasonable given the requested class is nationwide. Their interest in the instant injunction is far stronger than virtually any group outside of the Appellees.

The Federal Government has practically attempted to create a “social credit” system where one’s job and livelihood are determined by whether one complies with its view of vaccines. But no words in the Constitution nor in the statute books create such a regime. Dr. Anthony Fauci himself has [stated](#) on numerous occasions that vaccine mandates are unwise, unnecessary, or unlawful. Similar statements by Appellants and their agents confirm that the vaccines do not prevent transmission, so the Federal Employee Vaccine Mandate can only be premised on the employer presuming to know how to take care of the employees’ health better than they do.

Appellees’ and *amici*’s constitutional rights to remain free from unwanted medical treatment and their bodily autonomy are infringed every minute that the Federal Employee Vaccine Mandate remains in effect. Both the *Feds for Medical Freedom v. Biden* and the *Rodden v. Fauci* lawsuits have provided ample reason why the nationwide scope of the injunction is appropriate and necessary.

NCLA released the following statement:

“This injunction is vital to protect federal workers’ rights while the merits of the case are heard by the Court. Every single time the Government has issued one of these mandates and a court has halted it, no ‘parade of horrors’ has ensued. We’ve seen the government’s assertions prove overwrought in the CDC’s eviction moratorium litigation and with OSHA’s employer vaccine mandate. The same is true *a fortiori* here.”

— **John J. Vecchione, Senior Litigation Counsel, NCLA**

For more information visit the *amicus* page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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