

WO

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Mark Brnovich, et al.,

No. CV-21-01568-PHX-ML

Plaintiffs,

PERMANENT INJUNCTION

V.

Joseph R Biden, et al.,

Defendants.

On January 27, 2022, the Court issued an Order (Doc. 156) granting in part Plaintiffs' Motion for Preliminary Injunction (Doc. 72). Having reviewed Plaintiffs' proposed form of injunction (Doc. 158) and Defendants' objections thereto (Doc. 159), and there being no just reason for delay, Fed. R. Civ. P. 54(b),

IT IS ORDERED as follows:

1. Pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, the Court declares that the vaccination requirement for federal contractors and subcontractors established pursuant to Executive Order 14042 (the “Contractor Mandate”) exceeds the scope of the President’s authority under the Federal Property and Administrative Services Act (the “Procurement Act”), 40 U.S.C. § 101 *et seq.*

2. All Defendants except the City of Phoenix and President Joseph Biden are enjoined from including a clause implementing the above-referenced vaccination requirement (i) in any contract to which a contracting party is domiciled in or headquartered in the State of Arizona, including the State of Arizona or any of its agencies

1 or political subdivisions, or (ii) in any contract to be performed principally in the State of
 2 Arizona. All Defendants except the City of Phoenix and President Joseph Biden are
 3 further enjoined from denying government contracts to contractors domiciled in or
 4 headquartered in the State of Arizona based on their refusal to agree to the inclusion of
 5 such a clause.

6 3. There being no just reason for delay, the Clerk of Court is directed to enter
 7 judgment, with prejudice, in favor of Plaintiffs the State of Arizona and Arizona Attorney
 8 General Mark Brnovich, and against Federal Defendants,¹ on Count I of Plaintiffs' Third
 9 Amended Complaint (Doc. 134).

10 4. Counts III and IV, as asserted by Plaintiffs the State of Arizona and Arizona

11 ¹ The "Federal Defendants" are the United States of America; President Joseph Biden; the
 12 United States Department of Homeland Security; the United States Office of Personnel
 13 Management; the General Services Administration; the Safer Federal Workforce Task
 14 Force; the United States Office of Management and Budget; the Centers for Disease
 15 Control and Prevention; the Federal Acquisition Regulatory Council; the United States
 16 Department of Justice; Alejandro Mayorkas, in his official capacity as Secretary of
 17 Homeland Security; Troy Miller, in his official capacity as Senior Official Performing the
 18 Duties of the Commissioner of U.S. Customs and Border Protection; Tae Johnson, in his
 19 official capacity as Senior Official Performing the Duties of Director of U.S. Immigration
 20 and Customs Enforcement; Ur Jaddou, in her official capacity as Director of the United
 21 States Citizenship and Immigration Services; Kiran Ahuja, in her official capacity as
 22 Director of the Office of Personnel Management and co-chair of the Safer Federal
 23 Workforce Task Force; Robin Carnahan, in her official capacity as Administrator of the
 24 General Services Administration and co-chair of the Safer Federal Workforce Task Force;
 25 Shalanda Young, in her official capacity as Acting Director of the Office of Management
 26 and Budget and member of the Safer Federal Workforce Task Force; Jeffrey Zients, in his
 27 official capacity as COVID-19 Response Coordinator and co-chair of the Safer Federal
 28 Workforce Task Force; L. Eric Patterson, in his official capacity as Director of the Federal
 Protective Service and member of the Safer Federal Workforce Task Force; James Murray,
 in his official capacity as Director of the United States Secret Service and member of the
 Safer Federal Workforce Task Force; Deanne Criswell, in her official capacity as Director
 of the Federal Emergency Management Agency and member of the Safer Federal
 Workforce Task Force; Rochelle Walensky, in her official capacity as Director of the
 Centers for Disease Control and Prevention and member of the Safer Federal Workforce
 Task Force; Mathew Blum, in his official capacity as Chair of the Federal Acquisition
 Regulatory Council and Acting Administrator of the Office of Federal Procurement Policy;
 Lesley Field, in her official capacity as a member of the Federal Acquisition Regulatory
 Council and Acting Administrator for Federal Procurement at the Office of Federal
 Procurement Policy; Karla Jackson, in her official capacity as a member of the Federal
 Acquisition Regulatory Council and Assistant Administrator for Procurement at the
 National Aeronautics and Space Administration; Jeffrey Koses, in his official capacity as
 a member of the Federal Acquisition Regulatory Council and Senior Procurement
 Executive at the General Services Administration; John Tenaglia, in his official capacity
 as a member of the Federal Acquisition Regulatory Council and Principal Director of
 Defense Pricing and Contracting at the Department of Defense; and Merrick Garland, in
 his official capacity as Attorney General of the United States.

1 Attorney General Mark Brnovich, are dismissed as nonjusticiable, insofar as they seek to
2 challenge the vaccination requirement for federal employees established pursuant to
3 Executive Order 14043 (the “Employee Mandate”). There being no just reason for delay,
4 the Clerk of Court is directed to enter judgment, without prejudice, against Plaintiffs the
5 State of Arizona and Arizona Attorney General Mark Brnovich, and in favor of Federal
6 Defendants, on Counts III and IV of Plaintiffs’ Third Amended Complaint, insofar as those
7 claims challenge the Employee Mandate.

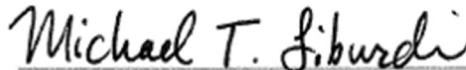
8 5. There being no just reason for delay, the Clerk of Court is directed to enter
9 judgment, with prejudice, against Plaintiffs the State of Arizona and Arizona Attorney
10 General Mark Brnovich, and in favor of Federal Defendants, on Counts II, III, IV, V, VI,
11 VII, and VIII of Plaintiffs’ Third Amended Complaint, insofar as those claims challenge
12 the Contractor Mandate.

13 6. All claims asserted by Plaintiff Al Reble are dismissed as nonjusticiable.
14 There being no just reason for delay, the Clerk of Court is directed to enter judgment,
15 without prejudice, against Plaintiff Reble, and to dismiss him from this action.

16 7. There being no just reason for delay, the Clerk of Court is directed to enter
17 judgment, with prejudice, against Plaintiffs the Phoenix Law Enforcement Association and
18 United Phoenix Firefighters Association Local 493, and in favor of Defendant the City of
19 Phoenix, on Counts I, IV, and VI of Plaintiffs’ Third Amended Complaint. The Clerk of
20 Court is further directed to dismiss Plaintiffs the Phoenix Law Enforcement Association
21 and United Phoenix Firefighters Association Local 493, and Defendant the City of
22 Phoenix, from this action.

23 8. Counts IX–XIII of Plaintiffs’ Third Amended Complaint (the “Immigration
24 Counts”) remain pending. Accordingly, the Clerk of Court shall not close the case at this
25 time.

26 Dated this 10th day of February, 2022.

27 
28

Michael T. Liburdi
United States District Judge