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Media Inquiries: [Judy Pino](#), 202-869-5218

NCLA Files Class-Action Lawsuit to Block Biden’s Unlawful Federal Contractor Vaccine Mandate

Vanderstelt, et al. v. Joseph R. Biden, et al.

Washington, DC (January 4, 2022) – The Biden Administration has enacted an unlawful [executive order](#) to compel millions of Americans who work for government contractors (even if they do not perform work on government contracts) to take a COVID-19 vaccine. Today, the New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed a [class-action lawsuit](#) against President Biden, the Safer Federal Workforce Task Force, the Office of Management and Budget, and other government agencies and officials, in the U.S. District Court for the Western District of Michigan. The Plaintiffs in this lawsuit seek judicial relief from the unlawful and unconstitutional Federal Contractor Vaccine Mandate. Two subclasses are being sought within the class-action suit, one for naturally immune contractor employees and one for remote workers.

This mandate requires Plaintiffs to take a vaccine without their consent—and in the case of those with naturally acquired immunity, against the medical advice of experts—thereby depriving them of their constitutional right to bodily integrity and to refuse unwanted medical care and violating their statutory right to informed consent.

On September 9, 2021, the Biden Administration announced several new administrative actions aimed at coercing a total of 100 million Americans to receive a COVID-19 vaccine. In addition to private employer, healthcare facility, and federal employee mandates, the announcement covered those working for federal contractors. The federal contractor mandate has been prohibited by judicial orders in the U.S. District Courts for the Eastern District of Kentucky and Southern District of Georgia.

The President cannot exercise authority this sweeping under the guise of “procurement” in the absence of clear and explicit congressional authorization. The attempt to control the personal health decisions of Americans through general procurement authority is a question of deep economic and political significance. Congress did not provide—nor does the Procurement Act allow—the President to have this power. Presidential policies prescribed under the Procurement Act are valid only if there is a “nexus between the regulations and some delegation of requisite legislative authority by Congress.” There is no nexus here.

Additionally, under the unconstitutional conditions doctrine, the government cannot impair Plaintiffs’ right to refuse medical care through subtle forms of coercion any more than it could through an explicit mandate.

NCLA released the following statements:

“This vaccine mandate is a remarkable act of legal contortion. Because no statute authorizes the Executive Branch to unilaterally impose a sweeping health care mandate on one-fifth of U.S. workers, the President is trying to fit this mandate into a seventy-year-old procurement law, using efficiency in government contracting as the pretextual justification. No one is fooled. Forcing contractors to fire their employees—particularly those who cannot spread COVID-19 in the workplace because they are naturally immune, work remotely, or both—will undermine rather than promote efficient procurement of goods and services.”

— **Sheng Li, Litigation Counsel, NCLA**

“As the President has admitted on many occasions, there is no general federal power to require citizens to receive emergency authorized vaccines. So instead, the administration is attempting to use the unwarranted deference courts have granted administrative agencies to snatch such power out of thin air. The Federal Contractor Vaccine Mandate ignores the language of the federal acquisition statutes and is directly in conflict with their purpose—to ensure the Federal Government has maximum access to the goods and services produced by the American economy. This mandate will both curtail federal access to the economy and shrink the output of firms contracting with the federal government. This federal edict is unlawful, and the Court should strike it down.”

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

For more information visit the case 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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