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**NCLA & TPPF File Class-Action Suit for Naturally Immune Fed. Employees  
Against Covid Vaccine Mandate**

*James Joseph Rodden, et al. v. Dr. Anthony Fauci, et al.*

**Washington, DC (November 5, 2021)** – Federal workers with naturally acquired immunity to COVID-19 filed a [class-action lawsuit](#) today against their employer, the U.S. government, as well as Dr. Anthony Fauci and other members of the Safer Federal Workforce Task Force, the group designated to act as the intermediate enforcer of the executive order mandating that all federal employees get vaccinated. The lawsuit, *James Joseph Rodden, et al. v. Dr. Anthony Fauci, et al.*, filed in the U.S. District Court for the Southern District of Texas by the New Civil Liberties Alliance, a nonpartisan, nonprofit civil liberties group, contends that the Federal Employee Vaccine Mandate violates employees’ constitutional and statutory rights. The Texas Public Policy Foundation, a nonprofit, nonpartisan research and educational institution based in Austin, Texas, serves as co-counsel in the case.

The named plaintiffs in this case are employed by government agencies including the Department of Homeland Security, the Department of Transportation, the Department of Agriculture, and the U.S. Secret Service. All possess naturally acquired immunity as confirmed by recent SARS-CoV-2 antibody tests and a medical expert. In addition to James Rodden, they include: Isaac McLaughlin, Gabriel Escoto, Michelle Morton, Waddie Jones, Ryan Biggers, Carole Mezzacapo, Edward Surgeon, Susan Reynolds, Roy Egbert, and George Gammon.

The [Executive Order](#) issued by the Biden administration in September proclaims that “it is necessary to require COVID-19 vaccination for all Federal employees” to halt the spread of the disease. NCLA argues the Vaccine Mandate undermines Plaintiffs’ constitutional rights to bodily integrity and to decline medical treatment, and their statutory right to withhold informed consent. It conditions their employment on their willingness to take a vaccine that is medically unnecessary for them given their existing antibody levels. Their proof of antibodies demonstrates sufficient natural immunity to protect their co-workers as well or better than approved vaccines for COVID-19.

The federal government does not consider employees fully vaccinated until two weeks after receiving a single-shot series or the second dose of a two-shot series. They must get the vaccine by [November 8](#) to comply with the Vaccine Mandate. Those who do not comply with the looming, aggressive deadline face potential disciplinary action, including termination of employment. As established through their declarations, [several experts attest](#) that it is *medically unnecessary* for these individuals to undergo vaccination at this point. Though the COVID-19 vaccines appear to be relatively safe at a population level, they still carry a risk of side effects, including severe adverse reactions and even death in rare cases. And once administered, there is no way to un-vaccinate someone.

Given naturally acquired immunity, the Federal Defendants cannot establish a compelling governmental interest in overriding Plaintiffs’ constitutional rights and personal autonomy by making their continued employment contingent upon their receiving a COVID-19 vaccine. The Federal Vaccine Mandate also violates the Emergency Use Authorization law, which allows the government to authorize drugs that have not yet received full FDA

approval and make them available to people who want them, on a strictly voluntary basis. The statute specifies that patients have a right to informed consent and to refuse administration of an EUA drug. But the Task Force has turned a permissive procedure to get possibly helpful drugs on the market in a crisis into an unlawful mandate.

Plaintiffs request temporary and permanent injunctive relief from the Federal Employee Vaccine Mandate, and a declaratory judgment that the mandate infringes upon their constitutionally and statutorily protected rights.

**NCLA and TPPF released the following statements:**

“The rational goal of any vaccine policy is to foster immunity. Vaccinating the already immune on pain of unemployment is as arbitrary and capricious an agency action as can be imagined. If your federal employer can do this, what other medical procedures can they impose on federal workers for zero health benefit just because they want to? Can they impose liposuction for the overweight or take spare kidneys for other workers in need?”

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

“The federal government has joined the vast majority of employers who have implemented vaccine mandates by refusing to carve out exceptions for employees who can demonstrate that they possess naturally acquired immunity. This scientifically unsound refusal effectively forces federal workers to subject themselves to an unnecessary medical procedure, violating their rights to bodily autonomy and to decline medical interventions under the United States Constitution.”

— **Jenin Younes, Litigation Counsel, NCLA**

“Our lawsuit seeks to vindicate our Clients’ constitutional rights to bodily integrity, informed consent, and to remain free of unnecessary and unwanted medical treatment. Under no circumstances should the federal government command Americans to undertake a medical treatment they don’t want.”

— **Robert Henneke, General Counsel, TPPF**

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

**ABOUT NCLA AND TPPF**

[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.

[TPPF](#) is a 501(c)(3) nonprofit, nonpartisan research institute. The Foundation’s mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

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