

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

NAVY SEAL 1, <i>et al.</i> , for themselves)	
and all others similarly situated,)	
)	
Plaintiffs,)	
v.)	No. 8:21-cv-2429-SDM-TGW
)	
JOSEPH R. BIDEN, in his official)	
capacity as President of the United)	
States, <i>et al.</i> ,)	
)	
Defendants.)	

PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs, as supplemental authority in support of their pending preliminary injunction, class certification, and TRO motions (Docs. 2, 35, 121, 130, 141), give notice to the Court of the order entered March 28, 2022, granting class certification and a classwide preliminary injunction in *U.S. Navy Seals 1–26 v. Austin*, No. 4:21-cv-01236-O, Doc. 140 (N.D. Tex. Mar. 28, 2022) [*Navy Seals*]. In accordance with Local Rule 3.01(i)(3), Plaintiffs provide the following succinct quotation from the authority:

The Court concludes that Plaintiffs have satisfied all elements for class certification for the Navy Class [of 4,095 Navy servicemembers who have filed religious accommodation requests], [Special Warfare/Special Operations] Subclass, and SEALs Subclass as to the RFRA and First Amendment claims.

* * *

The Named Plaintiffs and potential class members have all been harmed in essentially the same way. Each is subject to the Navy’s COVID-19 vaccine mandates. Each has submitted her religious accommodation request, and none has received accommodation. Without relief, each servicemember faces the threat of discharge and the consequences that accompany it. Even though their personal

circumstances may factually differ in small ways, the threat is the same—get the job or lose your job. By uniformly denying potential class members’ religious accommodation requests, the Navy has acted on grounds that apply generally to the class. And because potential class members may receive relief from a single injunction, the claim is appropriate for class-wide resolution under Rule 23(b)(2).

* * *

By early November, 99.4% of active-duty Navy servicemembers had been fully vaccinated, and that percentage is likely even higher today. The Navy has had extraordinary success in vaccinating its force. Yet Defendants’ briefing and declarations describe a catastrophic future if these class members remain unvaccinated. Fortunately, Defendants’ predictions are highly speculative.

. . . . Plaintiffs’ vaccinated colleagues are becoming infected and contributing towards the “massive loss of time and readiness” that the Navy fears. Defendants’ claims that the unvaccinated class members “present an unacceptable risk to naval operations” is hyperbolic, especially because these servicemembers successfully carried out their tasks in the pre-vaccine era of the pandemic.

Since this Court issued its January 3 preliminary injunction order, COVID-19 cases have dropped dramatically worldwide. The Navy’s interest in vaccinating the remaining 0.6% of its personnel—or less—does not outweigh the harm Plaintiffs are facing as they try to exercise their constitutional rights.

* * *

Defendants are enjoined from applying [the Navy’s COVID-19 vaccination policies] to members of the Navy Class and Subclasses.

This class-wide injunction is immediately **STAYED** in part, “insofar as it precludes the Navy from considering respondents’ vaccination status in making deployment, assignment, and other operational decisions.” *U.S. Navy SEALs 1–26*, ___ S. Ct. ___, 2022 WL 882559.[¹]

Navy Seals at 2, 7, 16, 17, 26–27 (cleaned up).

¹ See Defendants’ Notice of Supplemental Authority (Doc. 144), and Plaintiffs’ Unopposed Motion for Leave to File Supplemental Memorandum Regarding Supreme Court Stay Order in *Austin v. U.S. Navy Seals 1–26* (Doc. 145, filed contemporaneously herewith).

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