

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

THE ASSOCIATED GENERAL  
CONTRACTORS OF AMERICA, INC. et al.,

Plaintiffs,

v.

JOSEPH R. BIDEN et al.,

Defendants.

Civil Action No. 4:21-cv-01344-O

**JOINT STATUS REPORT**

Pursuant to the Court's August 29, 2022 order (ECF No. 27), the parties submit this joint status report as to how the plaintiffs' request for preliminary relief (ECF No. 6) should proceed in light of the Eleventh Circuit's decision in *Georgia v. President of the United States*, No. 21-14269, 2022 WL 3703822 (11th Cir. Aug. 26, 2022). The Eleventh Circuit's mandate will not take effect until at least October 18, 2022. *See* Fed. R. App. P. 41(b) & (c); *see also* Fed. R. App. P. 40(a)(1). Until that mandate issues, the *Georgia* district court's preliminary injunction remains in effect, and federal agencies remain precluded from taking any steps to enforce Executive Order 14042. *See also* Courtney Bubl , *The Ban on the Contractor Vaccine Mandate Was Lifted Partially. That Could Cause Confusion.*, Gov't Executive (Aug. 29, 2022), <https://perma.cc/C9G2-ZSHK> (quoting an August 29, 2022 statement by the Office of Management & Budget: "At this time, the nationwide injunction remains in effect, and thus agencies should continue not to take any steps to enforce Executive Order 14042."); *For Federal Contractors, Safer Federal Workforce* (last visited Sept. 1, 2022), <https://perma.cc/Y2AJ-9NP5> ("To ensure compliance with an applicable preliminary nationwide injunction, which may be supplemented, modified, or vacated, depending on the course of ongoing litigation, the Federal Government will take no action to implement or enforce Executive Order 14042."). Accordingly, to allow the defendants additional time to assess how to proceed in light of the Eleventh Circuit's *Georgia* decision (including whether to seek leave to amend or supplement the existing briefing in this case), the parties respectfully

request that they be allowed to submit another joint status report on September 9, 2022. The parties' agreement to provide a follow-up status report on September 9 is without prejudice to the plaintiffs seeking expedited consideration of the pending preliminary injunction motion, or any other relief, in the event that the defendants still require additional time to assess how to proceed in light of the Eleventh Circuit's *Georgia* decision.

Dated: September 2, 2022

Respectfully submitted,

**CROWELL & MORING LLP**

1001 Pennsylvania Avenue, N.W.  
Washington D.C. 20004-2595  
Telephone: 202-624-2500  
Facsimile: 202-628-5116

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

BRAD P. ROSENBERG

Assistant Director

By: /s/ Thomas P. Gies

Thomas P. Gies

District of Columbia Bar No. 943340

Daniel W. Wolff (admitted *Pro Hac Vice*)

District of Columbia Bar No. 486733

Alexandra L. Barbee-Garret (admitted *Pro Hac Vice*)

District of Columbia Bar No. 187886

*Lead counsel for Plaintiffs*

/s/ Kevin Wynosky

JODY D. LOWENSTEIN

KEVIN WYNOSKY (PA Bar No. 326087)

Trial Attorneys

U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street N.W., Rm. 12400

Washington, DC 20005

(202) 616-8267

Kevin.J.Wynosky@usdoj.gov

*Counsel for Defendants*

**BARLOW GARSEK & SIMON LLP**

920 Foch St.

Fort Worth, Texas 76107

Telephone: 817-731-4500 (Ext. 117)

Facsimile: 817-731-6200

Chris D. Collins

Texas Bar No. 24025300

Paul J. Vitanza

Texas Bar No. 24028100

*Local counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

On September 2, 2022, I electronically submitted this document to the Clerk of Court for the U.S. District Court for the Northern District of Texas using the Court's electronic case filing system. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kevin Wynosky  
Kevin Wynosky (PA Bar No. 326087)  
Trial Attorney  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street N.W., Rm. 12400  
Washington, DC 20005  
(202) 616-8267  
Kevin.J.Wynosky@usdoj.gov