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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Mark Brnovich, et al.,

No. CV-21-01568-PHX-MTL

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Plaintiffs,

PERMANENT INJUNCTION

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v.

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Joseph R Biden, et al.,

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Defendants.

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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),

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IT IS ORDERED as follows:

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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.*

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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

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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.

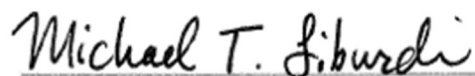
8 5. There being no just reason for delay, the Clerk of Court is directed to enter
9 judgment, with prejudice, against Plaintiffs the State of Arizona and Arizona Attorney
10 General Mark Brnovich, and in favor of Federal Defendants, on Counts II, III, IV, V, VI,
11 VII, and VIII of Plaintiffs’ Third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

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28 Michael T. Liburdi
United States District Judge