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January 28, 2022

Office of the Clerk
United States Court of Appeals for the 9th Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: Case # 21-15587 – Citation of Supplemental Authorities, per FRAP 28(j)

Dear Clerk,

Regarding Appellants’ Opening Brief (Dkt 6), pages 18-28 (re standing), this 9th Circuit should please be apprised of recent precedent:

- *Nat'l Fed'n of Indep. Bus. v. DOL*, 142 S. Ct. 661 (2022) (disallowing POTUS’ attempted “work-around... [r]equiring the vaccination of 84 million Americans”).
- *Biden v. Missouri*, 142 S. Ct. 647 (2022) (temporarily allowing POTUS to mandate Covid-19 vaccination on “10 million healthcare workers”)
- *Feds v. Biden*, No. 3:21-cv-356, 2022 U.S. Dist. LEXIS 11145, at *5 (S.D. Tex. Jan. 21, 2022) (overturning Executive Order “that all federal employees consent to vaccination against COVID-19 or lose their jobs. Because the President's authority is not that broad, the court will enjoin the second order's enforcement.”)

The above cases square with established precedent allowing constitutional claims against POTUS, such as:

- *Washington v. Trump*, 847 F.3d 1151, 1164 (9th Cir. 2017) (Granting nationwide TRO against POTUS for violating 5th Amendment bodily integrity and 1st Amendment freedom of religion, “[I]t is beyond question that the federal judiciary retains the authority to adjudicate constitutional challenges to executive action.”)
- *Texas v. Biden*, No. 21-10806, 2021 U.S. App. LEXIS 36689, at *103-04 (5th Cir. Dec. 13, 2021), “Consider also President Andrew Jackson's [failed] attempt to

convince the Supreme Court that he, and only he, got to decide whether the laws were being faithfully executed.”

- Louisiana v. Biden, No. 2:21-CV-00778, 2021 U.S. Dist. LEXIS 112316, at *11 (W.D. La. June 15, 2021) (upholding standing to sue POTUS), “A President may not transgress constitutional limitations. Courts determine where constitutional boundaries lie.”
- Mayor & City Council of Balt. v. Trump, 416 F. Supp. 3d 452, 470 (D. Md. 2019) (upholding standing to sue POTUS in 14th Amendment Equal Protection case).
- Aziz v. Trump, 234 F. Supp. 3d 724, 732-733 (E.D. Va. 2017) (upholding standing and granting preliminary injunction against POTUS executive order), “Every presidential action must still comply with the limits set by [] the Bill of Rights...Indeed, the Supreme Court has refused to hold that the president is exempt from compliance with the Due Process Clause even when he is exercising a pure Article II power...”

Respectfully submitted,



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Lead Attorney for Appellants

cc: Respondent's counsel, Philip Scarborough, Esq.