
**In the United States Court of Appeals
for the Eleventh Circuit**

No. 22-11532

LUCAS WALL,

Plaintiff-Appellant,

v.

CENTERS FOR DISEASE CONTROL AND PREVENTION, ET AL.,

Defendants-Appellees.

**AMICUS BRIEF OF THE STATE OF FLORIDA IN SUPPORT OF
APPELLANT**

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

JAMES H. PERCIVAL
Deputy Attorney General

Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300
(850) 410-2672 (fax)
evan.ezray@myfloridalegal.com

ASHLEY MOODY
Attorney General
HENRY C. WHITAKER
Solicitor General
JEFFREY PAUL DESOUSA
Chief Deputy Solicitor General
EVAN EZRAY
Deputy Solicitor General

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

The State of Florida certifies that the following is a complete list of interested persons, in addition to those already listed in the parties' briefs, as required by Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1:

1. DeSousa, Jeffrey, Counsel for Amicus
2. Ezray, Evan, Counsel for Amicus
3. Moody, Ashley, Attorney General of Florida
4. Percival, James, Counsel for Amicus
5. State of Florida, Amicus
6. Whitaker, Henry, Counsel for Amicus

/s/ Evan Ezray

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STATEMENT OF THE ISSUE

Whether the Court should hold this case pending a decision in *Health Freedom Defense Fund v. Biden*, No. 22-11287 (11th Cir.), which is already fully briefed and raises many of the same issues as those raised in this case.

INTRODUCTION AND INTEREST OF AMICI

When the CDC adopted the masking mandate at issue in this case, many Americans—concerned that the CDC was claiming unprecedented power to regulate their every breath—challenged the CDC’s action. Three suits ended up in the Middle District of Florida: one filed by the Health Freedom Defense Fund and two individuals; one filed by the State of Florida and 20 other States; and one filed *pro se* by Appellant Lucas Wall.

Health Freedom Defense Fund was the first to reach a judgment. There, Judge Mizelle ruled for the plaintiffs and vacated the transportation mask mandate. *See Health Freedom Defense Fund v. Biden*, No. 21-cv-1693, DE 53 (M.D. Fla. Apr. 18, 2022). The multi-state case was then stayed pending a decision on appeal in *Health Freedom Defense Fund*. *See Florida v. Walensky*, No. 22-cv-718, DE 14 (M.D. Fla. June 2, 2022). Judge Byron took a different course. Although Judge Mizelle had already vacated the mask mandate, he ruled (in the order giving rise to this case) that it was valid. *See Wall v. CDC*, No. 21-cv-975, DE 274 (M.D. Fla. Apr. 29, 2022).

Health Freedom Defense Fund is now fully briefed at this Court. *See* No. 22-11287 (11th Cir.). In that case, counselled parties on both sides filed merits briefs and numerous counselled amici have appeared. One set of those amici was the State of Florida and 22 other States.

The State of Florida has an interest in *Health Freedom Defense Fund* being decided before this case because it offers counselled presentation on both sides of an important

debate about the scope of the CDC's quarantine authorities. As the multi-state amicus brief in *Health Freedom Defense Fund* explains, that issue raises significant federalism questions because States have an interest in protecting their sovereign authority to enact quarantine measures of their choosing to combat the spread of disease in the manner best adapted to their distinctive local conditions.

ARGUMENT

Federal courts have inherent power “to control the disposition of the causes on [their] docket[s] with economy of time and effort for [themselves], for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Appellate courts often exercise that authority to hold a case when they “are awaiting a decision in a different case pending” before the court “that will resolve a key issue in the subject case.” *Sarkar v. Garland*, 39 F.4th 611, 618 (9th Cir. 2022). This Court should follow that course and hold this case for a decision in *Health Freedom Defense Fund* for three reasons.

First, *Health Freedom Defense Fund* provides a better vehicle to decide the weighty questions about the CDC's power at issue in this appeal. *Health Freedom Defense Fund* has counselled parties on both sides and has attracted substantial amicus participation. This case lacks those features.

Second, holding for *Health Freedom Defense Fund* is unlikely to substantially delay this case. *Health Freedom Defense Fund* is already fully briefed. This case, by contrast, will not be fully briefed until at least November. It therefore seems likely that in the normal

course, *Health Freedom Defense Fund* would be decided before (or at least soon after) this case, and thus, any delay here will be minimal.

Third, holding this case for *Health Freedom Defense Fund* is unlikely to prejudice Wall. In *Health Freedom Defense Fund*, Wall received essentially all the relief he could hope for—the transportation mask mandate was vacated. That vacatur remains in place and will protect Wall while his case is held.

CONCLUSION

For the foregoing reasons, this case should be held pending a decision in *Health Freedom Defense Fund*. If the Court does not hold this case, then it should reverse for the reasons stated in Florida’s amicus brief in *Health Freedom Defense Fund*.

Respectfully submitted,

ASHLEY MOODY
Attorney General

/s/ Evan Ezray
HENRY C. WHITAKER
Solicitor General
JEFFREY PAUL DESOUSA
Chief Deputy Solicitor General
EVAN EZRAY
Deputy Solicitor General
JAMES H. PERCIVAL
Deputy Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3684
evan.ezray@myfloridalegal.com

September 15, 2022

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limits of Fed. R. App. P. 32(a)(7)(B)(i) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 672 words.

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/s/ Evan Ezray
Evan Ezray

CERTIFICATE OF SERVICE

I certify that on September 15, 2022, I electronically filed the foregoing Brief with the Clerk of Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all parties in the case who are registered through CM/ECF.

/s/ Evan Ezray
Evan Ezray