



**U.S. Department of Justice**  
Civil Division, Appellate Staff  
950 Pennsylvania Ave. NW, Room 7216  
Washington, DC 20530

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Tel: 202-305-8727

December 29, 2022

**VIA CM/ECF**

Lyle W. Cayce, Clerk of Court  
U.S. Court of Appeals for the Fifth Circuit  
600 South Maestri Place  
New Orleans, LA 70130

RE: *Abbott v. Biden*, No. 22-40399 (5th Cir.) (argument held Nov. 8, 2022)

Dear Mr. Cayce:

The government writes to notify the Court that on December 23, 2022, the President signed into law the National Defense Authorization Act for Fiscal Year 2023 (NDAA). The NDAA directs the Secretary of Defense to rescind, within 30 days of the NDAA's enactment, "the mandate that members of the Armed Forces be vaccinated against COVID-19 pursuant to the memorandum dated August 24, 2021, regarding 'Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members.'" *See* James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, 117th Cong. § 525 (2022). The August 24 memorandum directed vaccination for "all members of the Armed Forces under DoD authority on active duty or in the Ready Reserve, including the National Guard." ROA.264. The government will notify the Court when the Secretary of Defense takes the action required by the NDAA.

Sincerely,

/s/ Sarah J. Clark  
Sarah J. Clark  
Counsel for the United States

cc: Counsel of Record (via CM/ECF)