



U.S. Department of Justice
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February 16, 2023

David J. Smith, Clerk of Court
U.S. Court of Appeals for the 11th Circuit
56 Forsyth St., NW
Atlanta, GA 30303

RE: *Health Freedom Defense Fund v. President of the United States*, No. 22-11287 (oral argument held on Jan. 17, 2023)

Dear Mr. Smith:

We write to inform the Court of developments that bear on the mootness of this case. By its terms, the Centers for Disease Control and Prevention's transportation mask order will expire when the public health emergency declaration expires. *See Requirement for Persons To Wear Masks While on Conveyances and at Transportation Hubs*, 86 Fed. Reg. 8025, 8030 (Feb. 3, 2021) (providing that the mask order "will remain in effect . . . until the Secretary of Health and Human Services rescinds the determination under section 319 of the Public Health Service Act (42 U.S.C. 247d) that a public health emergency exists").

The Administration recently announced that the public health emergency declaration is expected to expire on May 11, 2023. *See* Executive Office of the President, Office of Mgmt. & Budget, *Statement of Administration Policy* (Jan. 30, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf>; Department of Health & Human Servs., Admin. for Strategic Preparedness & Response, *Renewal of Determination That a Public Health Emergency Exists* (Feb. 9, 2023), <https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx> (renewing determination that a public health emergency exists, effective February 11, 2023, which will expire in 90 days, on May 11, 2023, unless extended, *see* 42 U.S.C. § 247d(a)(2)).

We respectfully request the opportunity to brief issues of mootness at that time.

Sincerely,

s/ Brian J. Springer
Brian J. Springer
U.S. Department of Justice
Appellate Staff, Civil Division

cc (via CM/ECF):Counsel of Record

CERTIFICATE OF COMPLIANCE

This letter complies with the type-volume limit of Federal Rule of Appellate Procedure 28(j) because the body of the letter contains 205 words.

s/ Brian J. Springer
Brian J. Springer

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2023, I electronically filed the foregoing letter with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/ Brian J. Springer
Brian J. Springer