

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

BST HOLDINGS, LLC; RV  
TROSCLAIR, LLC; TROSCLAIR  
AIRLINE, LLC; TROSCLAIR  
ALMONASTER, LLC; TROSCLAIR  
AND SONS, LLC; TROSCLAIR &  
TROSCLAIR, INC.; TROSCLAIR  
CARROLLTON, LLC; TROSCLAIR  
CLAIBORNE, LLC; TROSCLAIR  
DONALDSONVILLE, LLC;  
TROSCLAIR HOUMA, LLC;  
TROSCLAIR JUDGE PEREZ, LLC;  
TROSCLAIR LAKE FOREST, LLC;  
TROSCLAIR MORRISON, LLC;  
TROSCLAIR PARIS, LLC;  
TROSCLAIR TERRY, LLC;  
TROSCLAIR PARIS, LLC;  
TROSCLAIR TERRY, LLC;  
TROCLAIR WILLIAMS, LLC; RYAN  
DAILEY; JASAND GAMBLE;  
CHRISTOPHER L. JONES; DAVID  
JOHN LOSCHEN; SAMUEL  
ALBERT REYNA; KIP STOVALL;  
ANSWERS IN GENESIS, INC.;  
AMERICAN FAMILY  
ASSOCIATION, INC.; BURNETT  
SPECIALISTS; CHOICE STAFFING,  
LLC; AND STAFF FORCE, INC.,  
*Petitioners,*

v.

OCCUPATIONAL SAFETY AND  
HEALTH ADMINISTRATION,  
UNITED STATES DEPARTMENT  
OF LABOR,  
*Respondents.*

Case No. 21-60845

**PETITIONERS' MOTION FOR EXPEDITED CONSIDERATION  
OF MOTION FOR STAY PENDING REVIEW**

Petitioners Burnett Specialists; Choice Staffing, LLC; and Staff Force, Inc. (collectively "Petitioners") have, concurrently with this motion, filed a Motion for Stay Pending Review of Respondent's emergency temporary standard requiring COVID-19 vaccinations for employees of large private employers.

Pursuant to Fed. R. App. P. 2 and Fed. R. App. P. 27.5, Petitioners move this Court to expedite consideration of the Motion for Stay Pending Review. As shown in that Motion, time is of the essence in considering the Motion. The emergency temporary standard became effective immediately, triggering a cascade of compliance obligations for Petitioners. As shown in the Motion for Stay and accompanying declarations, these include immediately hiring new compliance staff; seeking legal compliance counsel; developing policies and procedures; procuring testing and masking supplies; and purchasing new compliance software. As further shown in the Motion for Stay, many of those obligations will cause irreparable harm in the form of employees who will quit prematurely due to publicity surrounding the ETS; employees leaving to seek employment with smaller employers; potentially ruinous fines of over \$130,000; and employees taking an irreversible vaccine that Respondent may not constitutionally mandate.

In order to prevent these harms, and others, Petitioners ask this Court to expedite its consideration of the Motion for Stay Pending Review. Petitioners

request the Respondent be ordered to file its response to the Motion for Stay Pending Review no later than Monday, November 8, 2021, and that the Court rule on the Motion as soon thereafter as is practicable.

Respectfully submitted,

/s/Matthew R. Miller

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### **CERTIFICATE OF CONFERENCE**

As required by 5th Cir. Rule 27.4, I certify that I have emailed Edmund Baird, the agency designee regarding the merits of this motion and I have not received a response from Mr. Baird.

/s/Matthew R. Miller

MATTHEW R. MILLER

## CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of November, 2021, in accordance with 28 U.S.C. 2112(a), I served a copy of Petitioner's Motion for Expedited Consideration of the Motion for Stay Pending Review by delivering a copy via electronic mail to the agency designee:

Edmund C. Baird  
Associate Solicitor for OSHA  
Office of the Solicitor  
U.S. Department of Labor  
zzSOL-Covid19-ETS@dol.gov

/s/Matthew R. Miller  
MATTHEW R. MILLER

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 247 words.

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Word O365 in 14-point, Times New Roman font.

Dated November 5, 2021

/s/Matthew R. Miller

MATTHEW R. MILLER

*Counsel for Petitioners*