

**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
MATTHEW R. MILLER
mmiller@texaspolicy.com
ROBERT HENNEKE
rhenneke@texaspolicy.com
CHANCE WELDON
cweldon@texaspolicy.com
TEXAS PUBLIC POLICY FOUNDATION
901 Congress Avenue
Austin, Texas 78701
Telephone: (512) 472-2700
Facsimile: (512) 472-2728

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 suing Word O365 in 14-point, Times New Roman font.

Dated November 5, 2021

/s/*Matthew R. Miller*
MATTHEW R. MILLER
Counsel for Petitioners