

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

BENTKEY SERVICES, LLC, dba	)	
THE DAILY WIRE	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. 21-4027
	)	
OCCUPATIONAL SAFETY AND	)	
HEALTH ADMINISTRATION, UNITED	)	
STATES DEPARTMENT OF LABOR,	)	
	)	
Respondents.	)	
_____	)	

**NOTICE OF FILING WITH THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

Respondents hereby notify the Court of the filing, on November 16, 2021, of the attached **NOTICE TO THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION OF MULTICIRCUIT PETITIONS FOR REVIEW** with the Judicial Panel on Multidistrict Litigation (JPML). Pursuant to 28 U.S.C. § 2112(a)(3), the Secretary is requesting that the JPML consolidate thirty-four petitions for review of the same final agency action filed in the D.C., First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuit Courts of Appeals and assign them to a single circuit court.

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Dated: November 16, 2021

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# ATTACHMENT

**BEFORE THE UNITED STATES  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE:** Occupational Safety and Health Administration, U.S. Department of Labor, “COVID-19 Vaccination and Testing; Emergency Temporary Standard,” Interim Final Rule, November 4, 2021 MDL-\_\_\_\_\_

**NOTICE TO THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT  
LITIGATION OF MULTICIRCUIT PETITIONS FOR REVIEW**

Pursuant to 28 U.S.C. § 2112(a)(3) and the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, hereby notifies the United States Judicial Panel on Multidistrict Litigation of thirty-four petitions for review of the same final agency action. These petitions were filed in twelve different courts of appeals within ten days after issuance<sup>1</sup> of the agency action. OSHA received time-stamped petitions from petitioners in each circuit within the applicable ten-day period (28 U.S.C. § 2112(a)(1)).

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<sup>1</sup> An OSHA emergency standard is considered issued “at the time when the standard is officially filed in the Office of the Federal Register.” 29. C.F.R. § 1911.12(a)(2). This emergency temporary standard (ETS) was filed with the Office of the Federal Register and posted for public inspection on the Federal Register’s website on November 4, 2021. See OSHA’s COVID-19 Vaccination and Testing ETS webpage, <https://www.osha.gov/coronavirus/ets2> (indicating the date of filing). The ETS was subsequently published in the Federal Register on November 5, 2021. 86 Fed. Reg. 61402. Because the tenth day after November 4, 2021 falls on a Sunday, the statutory period ends on November 15, 2021, regardless of whether the ten-day period is counted as starting with the November 4 inspection date or the November 5 publication date.

We submit with this notice a schedule setting forth the information required by Rule 25.2 and attach copies of the time-stamped petitions.

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**Rule 25.2 Schedule**

The date of issuance of the interim final rule: November 4, 2021.

<b>Case Name</b>	<b>Circuit Court</b>	<b>Docket Number</b>	<b>Filing Date</b>	<b>Date Received</b>
Republican National Committee v. Occupational Safety and Health Administration and United States Department of Labor	D.C. Circuit	21-1215	11/5/2021	11/5/2021
United Food and Commercial Workers International Union, AFL-CIO, CLC and American Federation of Labor, Congress of Industrial Organizations v. Occupational Safety and Health Administration, United States Department of Labor	D.C. Circuit	21-1219	11/8/2021	11/8/2021
National Association of Home Builders of the United States v. Occupational Safety and Health Administration, United States Department of Labor, Martin J. Walsh, and Douglas Parker	D.C. Circuit	21-1232	11/15/2021	11/15/2021
Massachusetts Building Trades Council v. Occupational Safety and Health Administration	First Circuit	21-1926	11/10/2021	11/10/2021
Local 32BJ, Service Employees International Union v. Occupational Safety and Health Administration, United States Department of Labor	Second Circuit	21-2800	11/9/2021	11/9/2021
AFT Pennsylvania v. Occupational Safety and Health Administration, Department of Labor	Third Circuit	21-3088	11/10/2021	11/10/2021
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO v. Occupational Safety and Health Administration, U.S. Department of Labor	Fourth Circuit	21-2262	11/9/2021	11/10/2021

Associated General Contractors of America, Inc., American Road and Transportation Builders Association, and Signatory Wall and Ceiling Contractors Alliance v. Occupational Safety and Health Administration and US Department of Labor	Fourth Circuit	21-2283	11/15/2021	11/15/2021
BST Holdings, LLC et al. v. Occupational Safety and Health Administration, United States Department of Labor <sup>2</sup>	Fifth Circuit	21-60845	11/5/2021	11/5/2021
Burnett Specialists, Choice Staffing, LLC, and Staff Force, Inc. v. Occupational Safety and Health Administration	Fifth Circuit	21-60845	11/5/2021	11/5/2021
American Family Association, Inc. v. Occupational Safety and Health Administration, United States Department of Labor	Fifth Circuit	21-60845	11/5/2021	11/5/2021
Word of God Fellowship, Inc., d/b/a/ Daystar Television Network, Inc. v. Occupational Safety and Health Administration, United States Department of Labor	Fifth Circuit	21-60845	11/5/2021	11/5/2021
State of Texas et al. v. United States Department of Labor, Martin J. Walsh, Occupational Safety and Health Administration, and Douglas Parker	Fifth Circuit	21-60845	11/5/2021	11/5/2021
LeadingEdge Personnel, Ltd. v. Occupational Safety and Health Administration	Fifth Circuit	21-60845	11/8/2021	11/8/2021
Texas Trucking Association et al. v. Occupational Safety and Health Administration, United States Department of Labor, Martin J. Walsh, Douglas Parker	Fifth Circuit	21-60845	11/10/2021	11/10/2021

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<sup>2</sup> Petitions filed in the Fifth Circuit have been consolidated under the case name *BST Holdings, LLC et al. v. Occupational Safety and Health Administration et al.*, 21-60845.



Greg Abbott v. Occupational Safety and Health Administration; United States Department of Labor; Martin J. Walsh; Douglas Parker	Fifth Circuit	21-60845	11/15/2021	11/15/2021
Bentkey Services, LLC, d/b/a/ The Daily Wire v. Occupational Safety and Health Administration, United States Department of Labor	Sixth Circuit	21-4027	11/5/2021	11/5/2021
Phillips Manufacturing & Tower Co. and Sixarp, LLC v. Occupational Safety and Health Administration, United States Department of Labor, Martin J. Walsh, and Douglas Parker	Sixth Circuit	21-4028	11/4/2021	11/4/2021
Commonwealth of Kentucky et al. v. Occupational Safety and Health Administration, Department of Labor, Douglas L. Parker, James Frederick, and Martin J. Walsh	Sixth Circuit	21-4031	11/5/2021	11/5/2021
Answers in Genesis, Inc. v. Occupational Safety and Health Administration	Sixth Circuit	21-4032	11/5/2021	11/5/2021
The Southern Baptist Theological Seminary and Asbury Theological Seminary v. Occupational Safety and Health Administration, Douglas L. Parker, U.S. Department of Labor, and Martin J. Walsh	Sixth Circuit	21-4033	11/5/2021	11/5/2021
Tankcraft Corporation and Plasticraft Corporation v. Occupational Safety and Health Administration	Seventh Circuit	21-3058	11/4/2021	11/4/2021
State of Indiana v. Occupational Safety and Health Administration, United States Department of Labor	Seventh Circuit	21-3066	11/5/2021	11/5/2021
Job Creators Network et al. v. United States Department of Labor, Marty Walsh, Occupational Safety and Health Administration, and Douglas Parker	Eighth Circuit	21-3491	11/4/2021	11/4/2021

State of Missouri et al. v. Joseph R. Biden Jr., The United States of America, Douglas Parker, Occupational Safety and Health Administration, Martin J. Walsh, and United States Department of Labor	Eighth Circuit	21-3494	11/5/2021	11/5/2021
DTN Staffing Inc. et al. v. Occupational Safety and Health Administration, United States Department of Labor	Eighth Circuit	21-3540	11/9/2021	11/10/2021
MFA Incorporated, MFA Enterprises, Inc., Missouri Farm Bureau Services, Inc., Missouri Farm Bureau Insurance Brokerage, Inc., MFA Oil Company, Doyle Equipment Manufacturing Co., and Riverview Manufacturing, Inc. v. U.S. Department of Labor and Occupational Safety and Health Administration	Eighth Circuit	21-3556	11/12/2021	11/12/2021
National Association of Broadcast Employees & Technicians—The Broadcasting & Cable Television Workers Section of the Communications Workers of America, AFL-CIO, Local 51 v. Occupational Safety and Health Administration, United States Department of Labor	Ninth Circuit	21-71370	11/9/2021	11/9/2021
Media Guild of the West, The News Guild-Communications Workers of America, AFL-CIO, Local 39213 v. Occupational Safety and Health Administration, United States Department of Labor	Ninth Circuit	21-71374	11/10/2021	11/10/2021

Union of American Physicians and Dentists v. Occupational Safety and Health Administration, United States Department of Labor	Ninth Circuit	21-71379	11/12/2021	11/12/2021
The Denver Newspaper Guild, Communications Workers of America, Local 37074, AFL-CIO v. Occupational Safety and Health Administration, United States Department of Labor	Tenth Circuit	21-9592	11/12/2021	11/15/2021
State of Florida et al. v. Occupational Safety and Health Administration, United States Department of Labor	Eleventh Circuit	21-13866	11/5/2021	11/5/2021
FabArc Steel Supply, Inc. and Tony Pugh v. Occupational Safety and Health Administration, United States Department of Labor, Douglas L. Parker, and Marty Walsh	Eleventh Circuit	21-13900	11/8/2021	11/8/2021
Associated Builders and Contractors, Inc. and Associated Builders and Contractors of Alabama, Inc. v. Occupational Safety and Health Administration, United States Department of Labor	Eleventh Circuit	21-13910	11/9/2021	11/9/2021

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