

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

STATE OF FLORIDA,

*Plaintiff,*

v.

Case No. 8:21-cv-839

XAVIER BECERRA, Secretary of  
Health and Human Services, in his  
official capacity; HEALTH AND  
HUMAN SERVICES; ROCHELLE  
WALENSKY, Director of the  
Centers for Disease Control and  
Prevention, in her official capacity;  
CENTERS FOR DISEASE  
CONTROL AND PREVENTION;  
The UNITED STATES OF  
AMERICA,

*Defendants.*

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**COMPLAINT FOR DECLARATORY AND  
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

## INTRODUCTION

1. The COVID-19 pandemic caused massive disruption and harm across the world. As of April 7, 2021, there have been 30,596,830 reported cases and 554,420 deaths in the United States.<sup>1</sup>

2. Those numbers, which are staggering and sobering, do not portray the full picture. The pandemic started with great uncertainty and caused great fear. But with resolve, purpose, and ingenuity, we have developed multiple vaccines, therapeutics, and treatments that have reduced the mortality at unparalleled speed.

3. As of April 6, 2021, 32.6% of the U.S. population has received at least one vaccine dose, while 19% is fully vaccinated.<sup>2</sup> Importantly, 75.9% of those 65-and-older have received at least one dose,<sup>3</sup> as states like Florida have prioritized the vaccination of vulnerable groups like seniors.

4. The country is returning to normal. Florida is leading the way and has remained more open than many other large states. Industries have adapted to COVID-19 in Florida and are adapting elsewhere. They have found ways to do business safely, and before long, most Americans will be vaccinated.

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<sup>1</sup> <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

<sup>2</sup> <https://covid.cdc.gov/covid-data-tracker/#vaccinations>.

<sup>3</sup> <https://covid.cdc.gov/covid-data-tracker/#vaccinations>.

5. On April 6, 2021, President Biden announced that all adults will be eligible to receive a vaccine by April 19, and he has set as a goal beginning to return to normal by the July 4th holiday.<sup>4</sup> Florida is ahead of President Biden's goal, both with reopening and with vaccinations. As of April 5, all adults in Florida are eligible for a vaccine.

6. Despite the virus, and those who would lock down society indefinitely, people are traveling again. They are doing so safely with protective measures like vaccines, sanitation, and social distancing. On April 5, for example, 1,561,959 individuals traveled on airplane flights in the United States—almost fifteen times the number who were flying on the same day a year earlier.<sup>5</sup> It is not just air travel. Hotels, theme parks, restaurants, and many other industries are safely reopening.

7. But as these industries begin to restart and rebuild, the cruise industry has been singled out, and unlike the rest of America, prevented from reopening. Despite the demonstrated success of reasonable COVID-19 safety protocols in Europe and Asia, the cruise industry in the United States has been subject to a nationwide lockdown since March 2020. As a result, the industry is on the brink of financial ruin.

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<sup>4</sup> <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/03/11/remarks-by-president-biden-on-the-anniversary-of-the-covid-19-shutdown/>.

<sup>5</sup> <https://www.tsa.gov/coronavirus/passenger-throughput>.

8. In October 2020, the Centers for Disease Control and Prevention (“CDC”) expressly found that continuing this nationwide lockdown was unjustifiable. But since that time, notwithstanding its public decision to allow the cruise industry to reopen, the CDC has functionally continued the lockdown. And it now appears the CDC will continue that lockdown until November 2021, even though vaccines are now available to all adults who want them.

9. The CDC does not have the authority to issue year-and-a-half-long nationwide lockdowns of entire industries. And even if it did, its actions here are arbitrary and capricious and otherwise violate the Administrative Procedure Act (“APA”).

10. Florida asks this Court to set aside the CDC’s unlawful actions and hold that cruises should be allowed to operate with reasonable safety protocols.

11. Absent this Court’s intervention, Florida will lose hundreds of millions of dollars, if not billions. And, more importantly, the approximately 159,000 hard-working Floridians whose livelihoods depend on the cruise industry could lose everything.

## **PARTIES**

12. Plaintiff State of Florida is a sovereign State and has the authority and responsibility to protect the wellbeing of its public fisc and the health, safety, and welfare of its citizens.

13. Defendants are the United States, appointed officials of the United States government, and United States governmental agencies responsible for the issuance and implementation of the challenged administrative actions.

14. Florida sues Defendant the United States of America under 5 U.S.C. §§ 702–03 and 28 U.S.C. § 1346.

15. Defendant CDC issued and is implementing the October 30, 2020 Order, establishing its Framework for Conditional Sailing and Initial Phase COVID-19 Testing Requirements for Protection of Crew (the “Conditional Sailing Order”). *See* Ex. 1. The CDC is a component of Defendant the Department of Health & Human Services (“HHS”).

16. Defendant Rochelle Walensky is the Director of the CDC. She is sued in her official capacity.

17. Defendant Xavier Becerra is the Secretary of HHS. He is sued in his official capacity.

### **JURISDICTION AND VENUE**

18. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, and 1361 and 5 U.S.C. §§ 702–03.

19. The Court is authorized to award the requested declaratory and injunctive relief under 5 U.S.C. § 706, 28 U.S.C. § 1361, and 28 U.S.C. §§ 2201–02.

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