

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

THE STATE OF ARIZONA, By and through
its Attorney General, MARK BRNOVICH;

THE STATE OF LOUISIANA,
By and through its Attorney General, JEFF
LANDRY;

THE STATE OF MISSOURI,
By and through its Attorney General, ERIC S.
SCHMITT;

PLAINTIFFS,

v.

CIVIL ACTION No. _____

CENTERS FOR DISEASE CONTROL &
PREVENTION;

ROCHELLE WALENSKY , in her official
capacity as Director of the Centers for
Disease Control & Prevention;

U.S. DEPARTMENT OF HEALTH & HU-
MAN SERVICES;

XAVIER BECERRA , in his official capacity as
Secretary of Health and Human Services;

the UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

ALEJANDRO MAYORKAS in his official ca-
pacity as Secretary of Homeland Security;

U.S CUSTOMS AND BORDER PROTEC-
TION;

CHRISTOPHER MAGNUS in his official ca-
pacity Commissioner of U.S. Customs and Bor-
der Protection;

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

TAE JOHNSON in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement;

U.S. CITIZENSHIP AND IMMIGRATION SERVICES;

UR M. JADDOU in her official capacity as Director of U.S. Citizenship and Immigration Services;

U.S. BORDER PATROL;

RAUL ORTIZ in his official capacity as Chief of the U.S. Border Patrol;

The UNITED STATES DEPARTMENT OF JUSTICE;

MERRICK GARLAND in his official capacity as Attorney General of the United States of America;

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;

DAVID NEAL in his official capacity as Director of the Executive Office for Immigration Review;

JOSEPH R. BIDEN, J R., in his official capacity as President of the United States; and

the UNITED STATES OF AMERICA;

DEFENDANTS.

COMPLAINT

The States of Arizona, Louisiana, and Missouri bring this civil action against the above-listed Defendants for declaratory and injunctive relief and allege as follows:

INTRODUCTION

1. This suit challenges an imminent, man-made, self-inflicted calamity: the abrupt elimination of the *only* safety valve preventing this Administration's disastrous border policies from devolving into an unmitigated chaos and catastrophe. Specifically, this action challenges the Biden Administration's revocation of Title 42 border control measures, which will, absent judicial relief, become effective May 23, 2022.

2. This is not merely the opinion of the Plaintiff States, but also that of some of the Administration's ardent supporters. For example, one Democratic Senator observed: "This is the wrong decision.... [I]t's clear that this administration's lack of a plan to deal with this crisis will further strain our border communities."

3. Similarly, another Democratic Senator explained that the "decision to announce an end to Title 42 despite not yet having a comprehensive plan ready shows a lack of understanding about the crisis at our border."

4. Eight days prior, these two Democratic Senators wrote a letter to President Biden telling him: "To date, we have not yet seen evidence that DHS has developed and implemented a sufficient plan to maintain a humane and orderly process in the event of an end to Title 42."

5. A third Democratic Senator, Joe Manchin, described the Title 42 revocation as an outright "*frightening* decision."¹ He further explained that "[w]e are *nowhere near prepared to deal with that influx*. Until we have comprehensive, bipartisan immigration reform that commits to securing our borders and providing a pathway to citizenship for qualified immigrants, *Title 42 must stay in place*."² In addition, "Title 42 has been an essential tool in combatting the spread of COVID-19 and control-

¹ Joe Manchin, *Title 42 Must Stay In Place Until We Have Major Immigration Reforms* (April 1, 2022) <https://bit.ly/37azEI0> (emphasis added).

² *Id.* (emphasis added).

ling the influx of migrants at our southern border,” said Senator Manchin.³ “We are already facing an unprecedented increase in migrants this year, and that will only get worse if the Administration ends the Title 42 policy.”⁴

6. And a fourth Democratic Senator, Maggie Hassan, similarly declared that: “Ending Title 42 prematurely will likely lead to a migrant surge that the administration does not appear to be ready for.”⁵

7. And these are just the opinions of Senators of President Biden’s *own party*—hardly disinterested, neutral observers. To be fair, these views appear to be widely shared—though in more-circumspect/less-candid statements—by many members of the Biden Administration itself, even at the highest levels. For example, the White House’s own Communications Director, Kate Bedingfield, outright admitted that the Administration “ha[s] every expectation that when the CDC ultimately decides it’s appropriate to lift Title 42, *there will be an influx* of people to the border.”⁶

8. Senator Bill Cassidy of Louisiana similarly criticized the Biden Administration’s plans, stating “Removing Title 42 is a mistake that will encourage another wave of illegal migration and drug trafficking to overwhelm the Southern border. There is no justification for this.” See Press Release, Cassidy Reacts to Rescinding Trump-Era Policy to Stop Mass Migration, www.cassidy.senate.gov.

9. The National Border Patrol Council President, Brandon Judd, similarly declared: “We know this is going to *cause chaos of epic proportions*.”⁷ He also noted the obvious incongruity of

³ *Id.*

⁴ *Id.*

⁵ <https://twitter.com/SenatorHassan/status/1509936999267983364>

⁶ Catherine E. Shoichet, *We're expecting a big increase in migrants at the US-Mexico border. But this time is different*, CNN, (April 1, 2022) (emphasis added), <https://cnn.it/3LrtLoC>.

⁷ Adam Shaw, *Border Patrol agents bracing for new migrant wave if Title 42 lifts: 'We are expecting to get wrecked'*, Fox News, (Mar, 31, 2022), <https://fxn.ws/3uKEx2B>

Administration policy: “We can’t even fly on airplanes without masks, but we’re going to end Title 42 which is going to cause the single largest [in]flux of illegal immigration in our history?”⁸ “It’s impossible for me to overstate how demoralized the average agent is,” Judd said. “They’re asking themselves, ‘Why am I putting on this uniform?’ every day. This administration is responsible for the single largest crisis on the border and they’re about to make it worse.”⁹

10. Similarly, DHS put out an official “fact sheet” in anticipation of the Title 42 revocation declaring that “There is broad agreement that our immigration system is *fundamentally broken*.”¹⁰ But the Administration’s “answer” to that problem is to break it further.

11. Other DHS officials, shielded by anonymity, have been even more candid, explaining that “ending Title 42 would lead to what one DHS agent described as a ‘surge on top of a surge.’”¹¹

12. One anonymous agent succinctly explained the sentiment at the Border Patrol: “We are expecting to get wrecked.”¹²

13. The Center for Disease Control’s (“CDC’s”) April 1, 2022 order revoking its prior Title 42 policy is also plainly at war with other policies of the Biden Administration. The Title 42 Termination is expressly premised on the “rapid[] decrease” of COVID-19 cases following the recent wave of the Omicron variant of the virus. Ex. A at 12. But the Administration has not seen fit elsewhere to act upon these improvements by, for example, lifting the mask mandate on airline trav-

⁸ *Id.*

⁹ Callie Patteson and MaryAnn Martinez, *Immigration authority Title 42 to be terminated on May 23, CDC says*, NY Post (Apr. 1, 2022), <https://nypost.com/2022/04/01/title-42-to-be-terminated-on-may-23-cdc-says/>.

¹⁰ DHS, *Fact Sheet: DHS Preparations for a Potential Increase in Migration* (Mar. 30, 2022), <https://bit.ly/3j3LEgR>.

¹¹ Adam Shaw and Peter Hasson, *Border Patrol agents bracing for new migrant wave if Title 42 lifts: “We are expecting to get wrecked”*, Fox News (Mar. 31, 2022), <https://fxn.ws/3IZjApt>.

¹² *Id.*

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