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## **State of Florida Continues to Challenge COVID-19 Vaccine Requirements**

Florida Governor Rick DeSantis has issued a statement that the State of Florida will appeal a recent preliminary injunction granted by US District Judge Kathleen Williams blocking the State from enforcing a recent law banning “vaccine passports” against Norwegian Cruise Line Holdings.

Norwegian recently resumed running cruises out of Florida on the condition that its passengers provide proof of vaccination against COVID-19. The law in question, SB 2006 [Fla. Stat. § 381.00316], took effect on July 1, 2021, and continues an executive order issued by the Governor in April of this year. It prevents “business entities” from requiring “patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from” businesses, including charitable organizations and non-profit corporations, within the State. Penalties for violating the law issued by the Florida Department of Health can amount to as much as \$5,000 per infraction.

Norwegian’s vaccination policy has been a long time in the making. On March 14, 2020, the Center for Disease Control issued a No Sail Order in response to fears that COVID-19 outbreaks on cruise ships would be especially destructive. This Order was downgraded to a more relaxed Conditional Sail Order [CSO] on November 4, 2020. The CSO requires that cruise ships meet certain criteria before they resume voyages. One way for cruise ship operations to comply with the CSO is by attesting that 95% of crew members and volunteer passengers had been vaccinated against COVID-19.

Pursuant to this Order, which is the subject of separate litigation between the CDC and the State of Florida, Norwegian devised the vaccination policy which the State seeks to prevent. As the basis for her ruling, Judge Williams opined that Norwegian was likely to prevail on its claims that SB 2006 infringes on its First Amendment Rights and places an excessive burden on interstate commerce.

Given the wide range of affected businesses and the high penalties associated with “vaccine passports” in the State of Florida, it is likely that SB 2006 will be the subject of further litigation. Notably, SB 2006 does not forbid employers from requiring their

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employees to produce proof of vaccination. Florida businesses concerned that their COVID-19 policies may be covered by the law should consult with legal counsel.

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