Memorandum

1. FACTS/PUBLIC PERCEPTION

At least two clients have contacted PJI, with tremendous anxiety due to their understanding that they (US citizens) must be vaccinated in order to leave the Ukraine. One client was afraid to physically cross the border due to his extreme reluctance (on religious grounds) to be forced to take the vaccine. There seems to be erroneous thinking that implies that there is a policy or regulation that may lead to Americans being unnecessarily stranded in the Ukraine for fear that they will need to be injected with the C-19 vaccine. Specifically, some clients believe that the US Department of state is prohibiting Americans without the COVID shots from leaving Ukraine via Poland, and mandating a Covid vaccine before they travel back to the United States from overseas, or the obligation of having to take the shot within 60 days of arrival into the US.

1. CONTROLLING LAW

In support of the above assertion that Americans need to receive the shot in order to escape the Ukraine, some cite to **“**CDC. 2020. “COVID-19 and Your Health.” Centers for Disease Control and Prevention. February 11, 2020. Cdc.gov/coronavirus/2019-ncov/travelers/international-travel-during-covid19.html.” This link, however, leads to the CDC website that states that only Non-US Citizens and Non-US Immigrants must be vaccinated, in addition to the testing and masking requirements for all.

*“You must be fully vaccinated with the primary series of an accepted COVID-19 vaccine to travel to the United States by plane if you are a non-U.S. citizen, non-U.S. immigrant (not a U.S. citizen, U.S. national, lawful permanent resident, or traveling to the United States on an immigrant visa). Only limited exceptions apply.”* <https://www.cdc.gov/coronavirus/2019-ncov/travelers/noncitizens-US-air-travel.html> (last checked March 2, 2022).

A US citizen client in the Ukraine recently stated that he “did not try to cross the border because of documents by the CDC and US State Department saying that [he had] to agree to being tested and vaccinated upon returning to the States.” He stated he could not do so due to his religious beliefs. In support, he sent several documents from the US Department of State and DHS, including a CDC Amended Order, and an "Attestation" document. The client then stated that these documents stated that he would have “to complete the "Attestation" document that stated that passengers must be tested within 3 days and vaccinated within 60 days,” and that he believed the “DHS document confirm[ed] this ‘mandate’ for vaccination.” He was unwilling to even try to cross the border since he could not submit to the vaccination requirement.

First, contrary to his beliefs, the CDC Amended Order simply promulgated a testing requirement within a certain time frame (or proof of recovery from C-19) for all air passengers – but no vaccination requirement.

Second, the Attestation also confirmed that the airline must provide Required Proof of Negative COVID-19 Test Result or Recovery from COVID-19 from each passenger, as well as Required Proof of COVID-19 Vaccination for Non-U.S. citizen, Nonimmigrant Air Passengers.

While Section 2 of the Attestation requiring reporting of vaccination status (a little confusingly if you don’t read the footnote) that it is “TO BE COMPLETED BY OR ON BEHALF OF EVERY COVERED INDIVIDUAL 2 YEARS OR OLDER,” footnote 4 to this section states that this applies to “any passenger covered by the Presidential Proclamation and CDC’s implementing Order: a noncitizen (other than a U.S. lawful permanent resident or U.S. national) who is a nonimmigrant seeking to enter the United States by air.” (emphasis added).

The Department of State travel requirements pertaining to travel to the Ukraine, and border crossings into Poland contain only Level 4 warnings not to travel to those countries, but no mention of any vaccine requirements for US Citizens. <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Poland.html> (last check March 2, 2022) The border crossings link to the US Embassy and Consulate in Poland similarly did not refer to any vaccine requirements. Only this:

“REQUIREMENTS: Proof of US Citizenship, No advanced approval required. No COVID-19 testing, vaccination, or quarantine requirements. Poland is welcoming everyone fleeing Russian aggression.” <https://pl.usembassy.gov/wp-content/uploads/sites/23/Update2.pdf>, last checked March 2, 2022.