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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

CITY OF CHICAGO,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>2021CH05275</u>
)	
FRATERNAL ORDER OF POLICE)	
CHICAGO LODGE NO. 7;)	
JOHN CATANZARA)	
)	
Defendants.)	

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, the City of Chicago respectfully requests that this Court grant judgment in its favor and temporarily and permanently enjoin Defendants Fraternal Order of Police, Chicago Lodge No. 7, its members and its President, Defendant John Catanzara, from engaging in, supporting or encouraging any work stoppage or strike by refusing to comply with the City's lawful policy requiring all City employees to report their COVID-19 vaccination status by October 15 and for all unvaccinated employees to submit to twice weekly testing until vaccinated.

INTRODUCTION

1. COVID-19 has been the leading cause of death for law enforcement officers in the United States in 2020 and 2021 and was the third leading cause of all deaths in the U.S. behind only cancer and heart disease in 2020. Mass vaccination has proven to be the best and most effective mechanism for preventing death and serious illness resulting from COVID-19. For this reason, the City of Chicago, like many other large public and private sector employers has implemented a vaccination policy with the goal of obtaining a fully vaccinated work force by January 1, 2022. The City's policy requires all employees to report their vaccination status by October 15, 2021. Any employees not vaccinated by October 15 must submit to twice

weekly testing until fully vaccinated, and all employees must be fully vaccinated by December 31, 2021. Employees who have not reported their vaccination status by October 15, 2021 will be placed in a non-disciplinary no-pay status until they have reported their vaccination status.¹

2. In late August when the City first announced its intent to mandate vaccinations for all City employees, FOP President John Catanzara responded: “We’re in America, G-damn it. We don’t want to be forced to do anything. Period. This ain’t Nazi f---ing Germany, [where they say], ‘Step into the f---ing showers. The pills won’t hurt you.’ What the f--k?” Since those comments he has remained steadfast in directing FOP members to refuse to comply with the City’s efforts to protect its employees and citizens.

3. In a video posted on social media and published on October 12, 2021, Catanzara urged officers to reject the mandate policy and instructed FOP members to refuse to report their vaccination status to the City by October 15 as required by the Vaccination Policy.² He advised the FOP membership “you are under no obligation to do that [report vaccination status] other than the City’s demand.” According to Catanzara, if the FOP membership follows his directive this will result in Chicago having a police force “at 50 percent or less for the weekend coming up.” He further “guaranteed” the FOP membership if they engage in a concerted disregard of the City’s lawful vaccine reporting directive “the no pay status will never last 30 days there’s no way they’re going to be able to sustain a police department workforce at 50 percent capacity or less for more than seven days without something budging.” This instruction to all FOP members to collectively violate the City’s

¹ The City reserves the right to impose discipline for violating the Policy where warranted.

² Tragically and coincidentally, also on October 12, 2021 Catanzara’s predecessor as FOP President, Dean Angelo, Sr. died after hospitalization for COVID-19.

lawful Vaccine Policy amounts to an unlawful strike and work stoppage and exposes the City to an untenable risk of irreparable harm that this Court should enjoin. As President, Catanzara is authorized to speak directly on behalf of the FOP and its members and is legally responsible for the actions of all FOP members who follow his direction.

4. On Wednesday, October 13, 2021, the FOP held a meeting for its members that was attended by a large number of police officer members as reported on various news channels. On information and belief, at that meeting FOP President John Catanzara repeated his directive to officers that they need not comply with a clear Citywide policy intended for the entire City workforce. This continued directive is a clear instruction and command to engage in an unlawful strike for which this court must enjoin.

THE PARTIES

5. The City of Chicago is a municipal corporation, organized under the laws of the State of Illinois.

6. Defendant, Fraternal Order of Police Chicago Lodge No. 7 (“FOP”), is a labor organization as defined under Section 3(i) of the Illinois Public Labor Relations Act and is the exclusive bargaining representative of a bargaining unit composed of over 10,500 sworn police officers below the rank of sergeant employed by the City of Chicago Police Department.

7. Defendant John Catanzara is the President of the FOP. In his capacity as President, he represents and speaks on behalf of the over 10,500 FOP members, and his directive to violate the City’s Vaccination Policy, if followed by his membership, would result in an unlawful and dangerous work stoppage that would endanger the entire City as well as his own membership.

8. This action is brought pursuant to the Illinois Public Labor Relations Act and Illinois common law to enjoin the FOP and its officers from engaging in, supporting or encouraging any work stoppage or strike in response to the City's implementation of its Vaccination Policy. Under Illinois law, it is per se illegal for sworn police officers to engage in a strike.

9. The City and the FOP are parties to a collective bargaining agreement ("CBA") that establishes the terms and conditions of employment for the bargaining unit represented by the FOP. Article 5 of the CBA provides the following:

Section 5.1 — No Strike Commitment

Neither the Lodge nor any Officer will call, institute, authorize, participate in, sanction, encourage, or ratify any strike, work stoppage, or other concerted refusal to perform duties by any Officer or Officer group, or the concerted interference with, in whole or in part, the full, faithful and proper performance of the duties of employment with the Employer. Neither the Lodge nor any Officer shall refuse to cross any picket line, by whomever established.

Section 5.2 — Resumption of Operations

In the event of action prohibited by Section 5.1 above, the Lodge immediately shall disavow such action and request the Officers to return to work, and shall use its best efforts to achieve a prompt resumption of normal operations. The Lodge, including its officials and agents, shall not be liable for any damages, direct or indirect, upon complying with the requirements of this Section.

Section 5.3 — Union Liability

Upon the failure of the Lodge to comply with the provisions of Section 5.2 above, any agent or official of the Lodge who is an Officer covered by this Agreement may be subject to the provisions of Section 5.4 below.

Section 5.4 — Discipline of Strikers

Any Officer who violates the provisions of Section 5.1 of this Article shall be subject to immediate discharge. Any action taken by the Employer against any Officer who participates in action prohibited by Section 5.1 above shall not be considered as a violation of this Agreement and shall not be subject to the provisions of the grievance procedure; except that the issue whether an Officer in fact participated in a prohibited action shall be subject to the grievance and arbitration procedure.

THE CITY'S VACCINATION POLICY

10. On or about August 25, 2021, the City of Chicago announced that it would be proposing and implementing a policy that would require COVID-19 vaccinations for City employees, contractors and vendors effective October 15, 2021.

11. Since on or about August 25, 2021, representatives from the City have engaged in good faith negotiations by meeting with representatives of the labor organizations representing impacted employees for the purpose of bargaining over the terms and conditions of the Vaccination Policy, including the FOP.

12. Following bargaining and after receiving input from the relevant unions including the FOP, on October 8, 2021 the City published its final Vaccination Policy, a true and accurate copy of which can be found on the City of Chicago website and which is attached hereto as Exhibit 1.

13. Under the Vaccination Policy, City employees, contractors, and vendors must be fully vaccinated by October 15, 2021 or undergo regular COVID-19 testing as a condition of employment. All employees, volunteers, and contractors must report their vaccination status through the COVID-19 Vaccination Portal by no later than October 15, 2021. Employees who have not reported their vaccination status by October 15, 2021 or their decision to opt for the temporary testing option will be placed in a non-disciplinary no-pay status until they have reported their vaccination status. A true accurate copy of the Policy is attached hereto as Exhibit 1.

14. In accordance with the requirements of the Americans with Disabilities Act, the limited information related to vaccination status and/or medical exemptions, collected through the Portal, will be treated as a confidential medical record and will be retained by the

Department of Human Resources in a separate confidential file. Such information will only be shared in accordance with the Americans with Disabilities Act. Employees who upload their information to the Portal are advised that all information submitted to the Portal will be treated as confidential information in accordance with applicable law. A true and accurate copy of the screen shots of the Portal submission pages are attached hereto as Exhibit 2.

15. Employees, contractors, and vendors can apply for a medical or religious exemption to be exempt from the requirement to be fully vaccinated. Those requests will be reviewed by the Department of Human Resources on a case-by-case basis.

16. Unvaccinated employees, contractors and vendors must undergo COVID-19 testing on a twice weekly basis with tests separated by 3-4 days. This testing option will sunset on December 31, 2021. Thereafter, employees, vendors and contractors covered by the Policy must be fully vaccinated as a condition of employment unless they have been granted an accommodation.

THE VACCINATION POLICY IS LAWFUL AND NECESSARY TO PROTECT PUBLIC HEALTH

17. As of October 13, 2021 there have been 321,117 reported cases of COVID-19, 30,316 hospitalizations and 6012 deaths within the City of Chicago. Through August 2021, within the Chicago Police Department, over 3000 confirmed COVID-19 cases have been reported, with over 2600 coming from the FOP bargaining unit. There have been four deaths resulting from COVID-19. All four deaths occurred before the availability of the life-saving vaccines.

18. Vaccinations are safe, effective and necessary for reducing COVID-19 cases, hospitalizations and deaths. During the current Delta surge, unvaccinated Chicagoans have been more than twice as likely to be diagnosed with COVID-19, more than five times as likely

to be hospitalized with COVID-19 and more than eight times as likely to die from COVID-19. See Declaration of Dr. Alison Arwady attached hereto as Exhibit 3.

**THE FOP'S CONCERTED REFUSAL TO REPORT VACCINATION STATUS
IS AN UNLAWFUL STRIKE AND WILL CAUSE IRREPRABLE HARM**

19. In addition to the COVID-19 pandemic, the City of Chicago is facing an epidemic of gun-related violent crime. Through October 13, 2021 there have been 2801 shooting incidents, an 11% increase over 2020, and 56% increase over the last 2 years. There have been 629 murders, a 4% increase over last year, and a 68% increase from 2019-2021.

20. The Police Department, like departments all over the country, also is suffering from staffing shortages due to retirements and resignations. It is therefore crucial that every able-bodied sworn member be available for the crucial fight for public safety.

21. On October 12, 2021, FOP President Catanzara, on behalf of the FOP and its members, explicitly and unambiguously advised FOP bargaining unit members not to comply with the City's policy: "do not fill out the portal information, you are under no obligation to do that other than the City's demand" (at 2:25); "so do not fill out the portal information" (at 2:56); "do not fall for it, hold the line . . . having bosses call you means one thing: our members are holding the line and officers from all ranks are not going into that portal they clearly must have a very low cooperation level" (at 4:08).

22. He further advised FOP bargaining unit members that the intent and purpose of this collective and concerted insubordination is to use the threat of a work stoppage to hold the City hostage to the FOP's demands, stating: "all I could tell you is if we suspect the numbers are true and we get a large number of our members to stand firm on their beliefs that this is an overreach and they're not going to supply the information in the portal or submit the testing then it's safe to say the City of Chicago will have a police force at 50 percent or less for

this weekend coming up.” He further guarantees “that the no pay status will never last 30 days there's no way they're going to be able to sustain a police department workforce at 50 capacity or less for more than seven days without something budging.”

23. If Catanzara and the FOP are allowed to continue with these extortionate demands, demands that would require officers to ignore the directives of their superiors, the City, and to disavow their sworn oath to serve and protect, the City will be faced with an unlawful and untenable Hobson’s Choice: either exempt the FOP membership from complying with reasonable and necessary directives needed to combat the COVID-19 pandemic and thereby jeopardize the health and safety of both CPD employees and citizens with whom they interact, or be left without a police force sufficient to keep the peace and combat the pandemic of violent crime plaguing the City.

24. In contrast, any harm to the FOP and its members resulting from an injunction will be minimal to nonexistent. The only immediate consequence of complying with the Vaccination Policy is the requirement of reporting vaccination status, and the need to undergo twice weekly testing for vaccinated individuals.

25. FOP members routinely and customarily provide medical information to the City and voluntarily subject themselves to medical testing as a condition of employment. Among other requirements, FOP bargaining unit members must pass a rigorous and comprehensive pre-employment physical and psychological examination, and as a condition of employment, employees are subjected to random drug and alcohol testing.

26. FOP bargaining unit members also regularly and routinely submit confidential and private medical information and undergo medical testing for the purpose of obtaining Injury on Duty (“IOD”) benefits, which entitle an officer who is absent from work on account

of an injury or illness incurred while in the performance of their duties to full pay and benefits for up to twelve months. Indeed, over 3000 FOP bargaining members have voluntarily submitted medical information claiming that they were infected with COVID-19 while in the performance of their duties.

COUNT I
Unlawful Work Stoppage in Violation of the IPLRA

27. Under the IPLRA and Illinois common law, sworn peace officers, such as the patrol officers represented by the FOP do not have the right to strike. Any concerted work stoppage by peace officers is unlawful.

28. Catanzara, in his capacity as FOP President, unlawfully organized, directed, and encouraged an unlawful strike by directing FOP members to violate the Vaccination Policy and refuse to report vaccination status to the City's Vaccination Portal.

29. FOP bargaining members, by following Catanzara's directive to not report vaccination status to the City's Vaccination Portal, are engaging in an unlawful strike and work stoppage.

30. The unlawful strike and work stoppage will cause the City and citizens irreparable harm for which there is no adequate remedy at law.

WHEREFORE, the City of Chicago respectfully requests that the Court:

- (1) Issue temporary, preliminary and permanent injunctive relief against Defendant FOP and its officers and members prohibiting them from engaging in any concerted refusal to submit vaccination status information to the Vaccination Portal or otherwise refuse to comply with the City's Vaccination Policy;
- (2) Issuing a temporary, preliminary and permanent injunction against Defendant Catanzara:

- a. Ordering him to issue a retraction and disavowal of his October 12 and October 13, 2021 directives to FOP members that they refuse to submit vaccination status information to the Vaccination Portal, refuse to submit COVID test results if unvaccinated or otherwise refuse to comply with the City's Vaccination Policy;
 - b. Enjoining him from engaging in any further encouragement, order or directive to FOP members to refuse to comply with the City's Vaccination Policy.
- (3) Grant such other relief, including monetary relief, as this Court deems appropriate.

Respectfully submitted,

CITY OF CHICAGO

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