

Federal Judge Tosses Texas COVID-19 Mandate Suit

In May 2021, more than 100 employees of The Methodist Hospital in Houston, Texas (Houston Methodist) and its related facilities filed suit against the hospital claiming that requiring employees to get the COVID-19 vaccine is making them act as “human ‘guinea pigs’” as a condition for continued employment. Throughout the complaint’s introduction, the plaintiffs contended that they are being forced to engage in an Orwellian experiment.

The facts are straightforward:

- On April 1, 2021, the hospitals issued a policy requiring mandatory COVID-19 immunization of covered employees.
- The requirement is subject to exemptions based only on medical condition or sincerely held religious beliefs.
- If employees do not comply with the policy they will be subject to a suspension, beginning on June 7, and then termination if they are still un-vaccinated by June 21.

Plaintiffs argued that the policies “violate the principles established in the Nuremberg Code” which requires informed consent to participate in a medical experiment and that the individual must have freedom of choice without force, deceit, fraud, threat, solicitation or any type of coercion.

Plaintiffs’ legal claims included wrongful termination in violation of public policy under Texas law which is a narrow exception to the at-will employment doctrine available when an employee has refused to commit an illegal act demanded by an employer, and violation of the Emergency Use Authorization (EUA) statute.

The suit was filed against the background of the pandemic and guidance from the Equal Employment Opportunity Commission approving mandatory employer vaccination programs provided that medical and religious accommodations are available. <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

On Saturday, June 12, 2021, a federal judge in Texas dismissed the suit and upheld the hospital’s policy. In his Order, he rejected as false and irrelevant the Plaintiffs’ claim that the vaccines were

experimental and dangerous, writing the “hospital’s employees are not participants in a human trial” and noting that Texas employment law only protects employees from termination for refusing to commit an act that carries criminal penalties. He also rejected the employees claim that they were being coerced, stating the following: “Bridges can freely choose to accept or refuse a Covid-19 vaccine, however if she refuses, she will simply need to work somewhere else.” The Judge also called the argument that a vaccination requirement was akin to medical experimentation during the Holocaust “reprehensible.” The decision may serve as a bellwether for similar claims in other jurisdictions and emphasizes the importance of the COVID-19 vaccine in saving lives and keeping staff, patients and their families safer.

The hospital indicated it would begin the process of terminating employees who failed to comply with the new policy. Plaintiffs’ attorney indicated he would appeal the ruling.

Aside from certain industries that employ essential workers, most employers are opting to encourage their employees to get vaccinated, rather than making it a workplace mandate. If courts generally uphold similar employer mandates, we anticipate these cases will impact employers’ decisions on this topic moving forward.

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Doris Bobadilla, Director
dbobadilla@gallowaylawfirm.com

Wendell Hall, Attorney
whall@gallowaylawfirm.com