

WHAT EMPLOYERS NEED TO KNOW AS FEDERAL JUDGE UPHOLDS HOUSTON HOSPITAL'S WORKPLACE VACCINE REQUIREMENT

Insights

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Concluding that a highly publicized lawsuit challenging Houston Methodist Hospital's mandatory vaccination policy failed to state viable legal claims and misrepresented certain facts, federal Judge Lynn Hughes dismissed the case on Saturday [as we explained and predicted last week](#). By injecting a much-needed dose of reality into the controversy over vaccine mandates in the workplace, the court provided some welcome news for those employers requiring their workers to receive the COVID-19 vaccine. While the case is certain to be appealed and is not the last we'll hear over such challenges, this result is a good first step for employers.

What Did the Court Say?

In a succinct five-page ruling, Judge Hughes addressed the 117 plaintiffs' legal claims and showed some disapproval of the tactics employed in their approach to the litigation.

Judge Not Pleased with "Press-Release Style" of Lawsuit

Recognizing the *"press-release style of their complaint,"* the court observed that many of the allegations it contained were irrelevant and/or untrue, beginning with calling the vaccines "experimental and dangerous." Judge Hughes made clear that the vaccine requirement at Methodist does not violate federal law as the plaintiffs were claiming. In fact, he said that the emergency provisions under which the vaccines were issued do not even apply to private employers such as Methodist, neither expanding nor restricting their responsibilities. The applicable law, 21 U.S.C.

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§360bbb-3, confers no private right of action to sue an employer at all. Thus, Methodist committed no actionable violation.

Wrongful Termination Claim Fails

He debunked the plaintiffs' "wrongful termination" allegation, which was based on the erroneous contention that currently available COVID-19 vaccines are experimental and dangerous. Under Texas law, this legal claim could have only succeeded if the plaintiffs had been terminated solely for refusing to commit a criminal act. As Judge Hughes explained, receiving the vaccine would not be a criminal act, a reality that rendered the plaintiffs' first claim dead on arrival. He also recognized that the Equal Employment Opportunity Commission (EEOC) has stated that employers may require these vaccines, subject to reasonable accommodation for certain medical or religious reasons. The court's opinion also noted that the U.S. Supreme Court has held that involuntary quarantines for contagious diseases and state-imposed mandatory vaccination requirements do not violate due process.

No Support for "Human Trial" Argument

The court also cited the plaintiffs' misrepresentation that Methodist employees were being coerced to participate in "a human trial." As there were in fact no such clinical trials underway at Methodist, there could be no violation of 45 C.F.R. §46.116. The judge further explained that the lawsuit's invocation of the Nuremberg Code is also misplaced, in part because the Code does not apply to private employers. He remarked that it was "reprehensible" for the plaintiffs to equate a COVID-19 vaccine requirement to medical experimentation in Nazi concentration camps.

Case Dismissed

In short, the court explained that Methodist is simply "trying to do their business of saving lives without giving [patients] the COVID-19 virus." The plaintiffs can freely accept or refuse the vaccine, the judge said, but if they refuse, "they will simply need to work somewhere else." Accordingly, the at-will employment relationship permits Methodist to require the vaccines subject to the above-referenced accommodation requirements.

What's Next?

Although this lawsuit is far from the only challenge to employer vaccination requirements – [as we have explained elsewhere](#) – Judge Hughes’ decision will certainly help point the debate back toward reality, at least in some circles. We expect the plaintiffs to appeal this decision (as they have already announced) and we will monitor the appeal for further consideration by the court system. If your organization decides to proceed with a mandatory vaccine policy, you should consult our [list of top seven considerations to take into account before doing so](#) and coordinate with your Fisher Phillips attorney.

We will continue to monitor developments and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips’ Insight system](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, contact your Fisher Phillips attorney, the author of this Insight, or visit our [Vaccine Resource Center for Employers](#).