

PUBLICATION

Texas Federal Court Rules in Employer's Favor on Groundbreaking Mandatory Vaccine Lawsuit

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On April 1, 2021, Houston Methodist Hospital (the Hospital) announced a policy requiring all covered employees to receive COVID-19 vaccinations (the Policy). The Policy permits exemptions for medical contraindications and sincerely held religious beliefs. If an employee fails to either provide proof of vaccination or request an exemption by the applicable deadline, the employee receives an unpaid suspension of up to 14 days. If the employee fails to come into compliance with the Policy during the 14-day period, the employee will be terminated.

Background

On May 28, 2021, a group of more than 100 employees filed a state court lawsuit against the Hospital alleging wrongful termination and related claims. The Hospital removed the case to federal court and then filed a motion to dismiss the case. On June 12, 2021, the federal court judge dismissed the case.

Texas adheres to the at-will employment doctrine. Under this doctrine, an employee may be terminated for any reason, with a few notable exceptions. For example, an employee cannot be terminated based on a classification that is protected by state or federal law. Texas also recognizes a narrow claim for wrongful termination where the employee is "terminated for refusing to commit an act carrying criminal penalties to the worker." To prove such a claim in Texas, a plaintiff must first show that "she was required to commit an illegal act – one carrying criminal penalties." The Court in this case reasoned that "[r]eceiving a COVID-19 vaccination is not an illegal act, and it carries no criminal penalties." The Court thus concluded that the employees' wrongful termination claim failed and dismissed the claim. The Court also rejected the employees' related claim alleging that the Hospital violated a general public policy exception to Texas' at-will employment doctrine. The Court held that Texas did not recognize such an exception. The Court added that, in any event, the Hospital's Policy is consistent with public policy.

The employees also sought a ruling from the Court declaring that the Hospital's Policy is invalid because it violates federal law and the Nuremberg Code. Specifically, the employees claimed the Hospital's Policy violated a federal statute imposing obligations on the Secretary of Health and Human Services when issuing an Emergency Use Authorization and a federal regulation governing the "Protection of Human Subjects" in the context of clinical trials. The Court found that neither federal law was applicable to the employees. The Court held that the federal statute only "confers certain powers and responsibilities to the Secretary of Health and Human Services in an emergency" and "neither expands nor restricts the responsibilities of private employers." With regard to the federal regulation, the Court found that the employees both "misconstrued the provision" and "misrepresented the facts" of the case. The Court found that because "[t]he hospital's employees are not participants in a human trial" the law cited by the employees was not applicable. Finally, the Court sternly rejected the employees' argument that the Policy is invalid because it violates the Nuremberg Code. The Court held that the Nuremberg Code was inapplicable to a private employer like the Hospital. The Court included that the employees' claim "[e]quating the injection requirement to medical experimentation in concentration camps is reprehensible."

Takeaway

The Court ultimately dismissed the employees' case in full. This case will likely be appealed, and employers should stay tuned for future developments on this case and similar cases. As detailed above, this case was ultimately decided in large part based on the particularities of Texas state law. Accordingly, employers imposing mandatory vaccine policies should be mindful of their jurisdiction's relevant law. Baker Donelson's experienced team of employment attorneys will continue to monitor vaccination developments and are available to assist employers in navigating the complexities of this important, constantly evolving issue. If you have questions about this topic, please contact one of the authors or one of Baker Donelson's [Labor & Employment attorneys](#).