

Electronic Alert

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COVID-19 Vaccine Mandate Withstands First Legal Challenge

By Josh Goldberg

In the first federal ruling of its kind, a federal court in the Southern District of Texas upheld an employer's vaccine mandate and dismissed a lawsuit filed by 117 employees who sought to block the injection requirement.

Houston Methodist Hospital had announced employees would be required to be vaccinated against COVID-19 by June 7, 2021; most of the hospital's 25,000 employees complied, with some being exempted for medical and religious reasons and others receiving deferrals because of pregnancy. A small number (less than 1%) objected. After the hospital placed the hold-out employees on unpaid suspension, and provided an additional two weeks for employees to get the vaccine, 117 objecting employees became plaintiffs in the lawsuit. They argued that the hospital was unlawfully forcing the injections, that the available vaccines were "dangerous" and "experimental," that employees were being made human guinea pigs, and that the policy was forced medical experimentation in violation of the Nuremberg Code.

The court dismissed the arguments about the nature of the vaccine, and sharply admonished the plaintiffs for "equating the injection requirement to medical experimentation in concentration camps." The Court found the analogy "reprehensible."

Employers have been eagerly awaiting rulings in some of the lawsuits filed to challenge vaccine mandates. As a cautionary note, this is one lawsuit in one federal district and one strongly worded opinion. Time will tell if it is a good predictor of how the laws will be interpreted in other jurisdictions.

Oregon and Washington employers should continue to monitor developments to see what trends emerge and, as always, remain cautious.

For any questions relating to navigating COVID-19 in the workplace or crafting your vaccination policy, contact Josh Goldberg at 503-276-2107 or jgoldberg@barran.com.