



Houston Federal Judge Decides Houston Methodist Hospital Can Require Employees to Get Vaccinated

Houston Federal Judge Lynn Hughes dismissed a lawsuit filed by former Methodist Hospital employees who were terminated by the hospital for refusing to get a COVID-19 vaccination. In doing so, Judge Hughes analyzed and rejected various arguments made by the former employees.

To begin, the former employees asserted that they should not have been terminated based on a public policy exception to Texas' employees at-will doctrine. Judge Hughes opined, however, that the only public policy exception to employment at-will in Texas is where an employee refuses to perform an illegal act. To fit within this exception, the former employees would need to show that (a) they were required to commit an illegal act that carried criminal penalties, (b) they refused to engage in the illegal act, (c) they were discharged, and (d) the only reason for the discharge was the refusal to commit the illegal act. Judge Hughes correctly held receiving a COVID-19 vaccination is not an illegal act and carries no criminal penalties. Further, Judge Hughes held that requiring employees to get the vaccine is not against public policy.

Next, Judge Hughes struck down the former employees' alternative theory that no one can be required to receive the vaccine under the emergency use authorization by the Federal Food, Drug, and Cosmetic Act (FDCA). The FDCA allows the Secretary of Health and Human Services to introduce into interstate commerce medical products intended for use in an emergency. But the FDCA requires the Secretary to ensure the recipients of these medical products understand the "potential benefits and risks of use" and "the option to accept or refuse administration of the product." Judge Hughes opined, however, that the FDCA neither expands nor restricts the responsibilities of private employers. Judge Hughes went on to point out that the FDCA does not apply at all to private employers like Methodist, and it does not confer a private opportunity to sue the government, employer, or worker.

Finally, Judge Hughes noted that even though the former employee's claims already failed as a matter of law, he felt it was necessary to clarify that the former employees had not been coerced into receiving the vaccine. The former employees claimed that they were being forced to choose between vaccination or termination. Judge Hughes disagreed. In his words, "Methodist is trying to do their business of saving lives without spreading the COVID-19 virus. It is a choice made to keep staff, patients, and their families safer." He continued to write that the former employees could have freely chosen to accept or refuse the COVID-19 vaccine, but because they refused, they simply need to work somewhere else.

After reading Judge Hughes' opinion, employers may think they can require their employees to receive the COVID-19 vaccine without any further consideration. But that is not the case. This lawsuit, and as a result Judge Hughes' opinion, was limited in terms of what was at issue. The lawsuit did not address situations regarding employees with deeply held religious beliefs or medical conditions that prevent them from being vaccinated. It also did not discuss employers providing additional compensation to only vaccinated employees. So, while Judge Hughes' opinion may indicate how courts will review similar lawsuits going forward, and it may even deter others from raising comparable claims in the future, his opinion does not grant employers free range in implementing and enforcing policies requiring employees to become vaccinated.

For more information please contact: [Adam Robertson](#) and [Tony Stergio](#).