

## **Federal District Court Rejects Hospital Employees' Attempt to Stop Vaccination Mandate During Legal Battle**

Article By:

Sarah Rafie Pineau

---

In September, 40 current and former employees of St. Elizabeth Medical Center in Kentucky sued the privately-owned hospital over its mandatory COVID-19 vaccination policy, alleging violations of their constitutional rights, the Americans with Disabilities Act, and Title VII. The policy required employees to either receive a COVID-19 vaccine or submit a request for a religious or medical exemption prior to October 1, 2021. Consequences for failure to comply included possible termination of employment.

Although the case is still ongoing, on September 24, 2021, United States District Judge David L. Bunning (E.D. Ky.) refused to stop the policy from going into effect during the legal battle. Judge Bunning determined that the plaintiffs failed to satisfy the stringent standard for obtaining injunctive relief, which requires a strong likelihood of success on the merits, a demonstration of irreparable harm absent an injunction or temporary restraining order, a showing that no substantial harm to others will result from the order, and a demonstration that the public interest will not be disserved.

On the first factor, the Court determined that plaintiffs' likelihood of success on the merits of their constitutional claims is "virtually nonexistent" because St. Elizabeth is not a state actor. On their ADA claim, the Court found that plaintiffs failed to show that St. Elizabeth had not complied with the requirement that a private employer provide necessary medical accommodations to the vaccine requirement. The Court cited the fact that as of September 21, 2021, St. Elizabeth had granted either full exemptions or deferments to 75% of employees who had requested a medical accommodation. The Court also determined that plaintiffs could not state a prima facie case of discrimination under the ADA because they had not sufficiently alleged adverse employment action because of a disability. On their Title VII claim, the Court found plaintiffs "failed to even suggest that they could raise a prima facie case of religious discrimination" as 11 of the plaintiffs had in fact been granted religious exemptions, some had not sought one, and none had been denied a religious exemption.

The Court also found that plaintiffs could not demonstrate irreparable harm, in part because loss of employment and injuries stemming from wrongful termination can be fully compensated by monetary damages. The Court also rejected plaintiffs claim of irreparable injury to their constitutional rights because constitutional rights are not implicated by the actions of non-state actors.

On the final two factors, the Court determined that the balance of the equities weighed in favor of denying injunctive relief, reasoning that plaintiffs' concerns about the efficacy and safety of the

COVID-19 vaccines do not override St. Elizabeth's right to impose conditions of employment.

St. Elizabeth filed a motion to dismiss plaintiffs' complaint on September 14, 2021. Although the final disposition of plaintiffs' challenge remains to be seen, the Court's determination that plaintiffs did not have a likelihood of success on the merits at the injunction stage is telling.

© Polsinelli PC, Polsinelli LLP in California

---

National Law Review, Volume XI, Number 285

Source URL: <https://natlawreview.com/article/federal-district-court-rejects-hospital-employees-attempt-to-stop-vaccination>