

## COVID-19 Vaccination Mandates – Recent Cases

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Please see below a brief listing of available, reported or pending cases in the U.S. focused on COVID-19 vaccination mandates based on Westlaw, LEXIS, or Bloomberg searches conducted between April 15 – October 8, 2021. Multiple additional cases are likely filed within lower courts currently which will lead to forthcoming decisions in the weeks ahead. An assessment of these cases and emerging legal trends follows prior to brief case abstracts.

### Trends Across Vaccine Mandate Cases

Numerous lawsuits challenging the constitutionality and legality of COVID-19 vaccination mandates have emerged across the U.S. throughout 2021. These cases challenge policies in both the public and private sectors at the local, state, and national levels. These challenges raise multiple arguments, including:

- Constitutional substantive due process arguments alleging violations of fundamental rights of bodily privacy or bodily integrity;
- First Amendment-based arguments, including those involving the right to free speech and the right to free religious exercise;
- Fourth Amendment unreasonable search and seizure arguments; and
- Federal or state law violations, including arguments pursuant to the Americans with Disabilities Act (ADA), the Civil Rights Act (CRA), and the federal Food, Drug, and Cosmetic Act (FDCA).

Key trends have emerged from a review of 57 total decisions (as of 10/8/21). First, in almost all cases in which courts have reached decisions, vaccination mandates have been upheld notwithstanding diverse claims. Of the total cases reviewed, 23 are still pending resolution and 12 were either dismissed by the plaintiffs or by the court as non-justiciable. Among cases with available decisions:

- 17 cases resulted in courts refusing to grant requested injunctions, leaving vaccine mandates in place;
- 1 case resulted in a court blocking a vaccine passport “ban”; and
- 4 cases resulted in issuance of some injunctive relief. Each of these cases involved religious freedom arguments. Note – similar arguments have also been raised in several other decisions where courts declined to block mandates, indicating that religious freedom arguments are not determinative. Still, religious freedoms may be the most divisive current issue among courts assessing vaccine mandate challenges.

**Filed Lawsuits (listed in reverse chronological order):**

- ***Pennsylvania Informed Consent Advocates, Inc. v. University of Pennsylvania Health System, et al., No. 5:21-cv-04415 (E.D. Pa. Oct. 7, 2021)***: Plaintiff organization challenged proof of COVID-19 vaccination requirements set by the University of Pennsylvania Health System for employees, arguing that such requirements constitute “compelled speech,” and violate rights to free exercise and bodily autonomy. Plaintiffs further argue that resulting employment action would constitute wrongful dismissal. The court has not yet issued a decision.
- ***Doe, et al. v. Austin, et al., No. 3:21-cv-01211 (N.D. Fla. Oct. 6, 2021)***: Plaintiff servicemembers challenge the Department of Defense’s (DOD) COVID-19 vaccination mandate. Plaintiffs allege, among other arguments, that the DOD has violated the Administrative Procedure Act, that such a mandate violates rights of informed consent and various federal statutes, and that the mandate violates substantive due process rights, equal protection guarantees, and violates the separation of powers. The court has not yet issued a decision.
- ***Pilz, et al. v. Inslee, et al., No. 3:21-cv-05735 (W.D. Wa. Oct. 5, 2021)***: Plaintiffs challenge Washington COVID-19 vaccination mandates for state workers, arguing the Governor lacked the authority to promulgate such a mandate, and that the mandate infringes the Americans with Disabilities Act, Title VII of the Civil Rights Act, and, among additional arguments, constitutional equal protection, religious exercise, privacy, and due process guarantees. The court has not yet issued a decision.
- ***Colorado Contractors Association et al. v. City & County of Denver, et al., No. 1:21-cv-02663 (D. Colo. Sept. 30, 2021)***: Plaintiffs challenge Denver’s COVID-19 vaccination order, arguing that the order requires contractors to enforce the order illegally, and that, among other arguments, it violates the constitutional contracts clause, the equal protection clause, and procedural due process rights. The court has not yet issued a decision.
- ***Foley v. Biden, No. 4:21-cv-01098 (N.D. Tex. Sept. 29, 2021)***: Plaintiff, a federal government employee, challenges the federal government’s COVID-19 vaccination mandate applicable to federal employees, arguing that it violates the First Amendment, the due process clause of the Fifth Amendment, the Administrative Procedures Act, and the Ninth Amendment. On October 6, 2021, the court denied the plaintiff’s motion for preliminary injunction.
- ***Doe v. The Board of Education of Montgomery County, et al., No. 8:21-cv-02481 (D. Md. Sept. 28, 2021)***: Plaintiffs challenge a resolution issued by the Board of Education of Montgomery County, Maryland, requiring employees of public schools in the county to obtain COVID-19 vaccinations. Plaintiffs argue the mandate violates the free exercise clause, Maryland constitutional guarantees, the equal protection clause, Title VII of the Civil Rights Act, and Maryland law. The court has not yet reached a decision.
- ***Roe 1, et al. v. Allina Health System, et al., No. 0:21-cv-02127 (D. Minn. Sept. 27, 2021)***: Plaintiffs challenge a series of health care facility COVID-19 employee vaccination mandates, arguing the requirements violate the Religious Freedom Restoration Act, the free exercise clause, Minnesota law, the Fourteenth Amendment’s protection of bodily integrity, and the Americans with Disabilities Act. The court has not yet issued a decision.

- ***Nyamoti v. The Mount Sinai Hospital, et al.*, No. 1:21-cv-08020 (S.D.N.Y. Sept. 27, 2021)**: Plaintiffs challenge a hospital employee vaccination mandate, arguing the mandate violates the free exercise clause by failing to provide a religious exemption. The court has not yet issued a decision.
- ***Messina, et al. v. The College of New Jersey, et al.*, No. 3:21-cv-17576 (D.N.J. Sept. 27, 2021)**: Plaintiffs challenge the College's student vaccination mandate, arguing it violates Fourteenth Amendment equal protection, liberty, and privacy rights as well as the Fourth Amendment's protection against unreasonable search and seizure and procedural due process guarantees. The court has not yet issued a decision.
- ***Maniscalco, et al. v. The New York City Department of Education, et al.*, No. 21-cv-5055 (E.D.N.Y. Sept. 23, 2021)**: Plaintiffs challenge New York City's COVID-19 vaccination mandate for Department of Education employees and certain contractors. On September 23, 2021, the court declined to issue an injunction, finding the plaintiffs had not shown a likelihood of success on the merits of substantive due process and equal protection claims. The order has been appealed to the Second Circuit.
- ***Tucker, et al. v. Johnson, et al.*, No. 2021CP1004397 (S.C. Cir. Ct. Sept. 23, 2021)**: Plaintiffs, employees at the Charleston County Sheriff's Office, challenge the county's COVID-19 employee vaccine mandate, arguing it violates the South Carolina Constitution, South Carolina law, the Fourteenth Amendment's substantive due process protections, the freedom of speech, and equal protection guarantees. The court has not yet issued a decision.
- ***Hamilton, et al. v. Tecklenburg, et al.*, No. 2021CP1004394 (S.C. Cir. Ct. Sept. 23, 2021)**: Plaintiffs, including City of Charleston Fire Department employees, challenge the county's COVID-19 employee vaccine mandate, arguing it violates the South Carolina Constitution, South Carolina law, the Fourteenth Amendment's substantive due process protections, the freedom of speech, and equal protection guarantees. The court has not yet issued a decision.
- ***Herndon, et al. v. Walz, et al.*, No. 2021CP1004391 (S.C. Cir. Ct. Sept. 23, 2021)**: Plaintiffs, employees at St. John Fire District, challenge the fire district's COVID-19 employee vaccine mandate, arguing it violates the South Carolina Constitution, South Carolina law, the Fourteenth Amendment's substantive due process protections, the freedom of speech, and equal protection guarantees. The court has not yet issued a decision.
- ***Costin, et al. v. Biden, et al.*, No. 1:21-cv-02484 (D.D.C. Sept. 23, 2021)**: Plaintiffs challenge President Biden's executive orders and the Department of Defense's vaccine mandate, arguing the requirements violate substantive due process, equal protection, the federal Food, Drug, and Cosmetic Act, the Administrative Procedures Act, and the Religious Freedom Restoration Act. The court has not yet issued a decision.
- ***State Police Association of Massachusetts v. Commonwealth of Massachusetts, et al.* (Superior Court, Massachusetts, Sept. 23, 2021)**: The State Police Association of Massachusetts challenged a state executive order requiring executive branch employees to obtain COVID-19 vaccinations. On September 23, 2021, the superior court denied the Association's request, finding no irreparable harm and that the balance of the interests fell in the state's favor given "the Commonwealth's more significant interest in protecting the health and safety of its workforce."

- **Andre-Rodney, et al. v. Hochul, et al., No. 1:21-cv-01053 (N.D.N.Y. Sept. 22, 2021)**: Plaintiff New York state security workers challenge New York’s requirement that personnel working in hospitals be fully vaccinated. Plaintiffs argue the requirement violates equal protection, the Fourteenth Amendment right to refuse unwanted medical treatment, along with additional substantive due process protections including bodily integrity and the right to work. On September 23, 2021, the court refused to grant a temporary restraining order or an injunction pending appeal.
- **Sambrano, et al. v. United Airlines, Inc., No. 4:21-cv-01074 (N.D. Tex. Sept. 21, 2021)**: Plaintiff United Airlines employees challenge the airline’s COVID-19 vaccine mandate for failing to provide religious or medical accommodations, arguing such action constitutes religious and disability-based discrimination in violation of federal law. The court has not yet issued a decision.
- **Condon, et al. v. Ascension Health Alliance, et al., No. 3:21-cv-00728 (M.D. Tenn. Sept. 20, 2021)**: Plaintiff employees challenge Ascension Health Alliance’s employee COVID-19 vaccine mandate, seeking declaratory relief indicating that the federal Food, Drug, and Cosmetic Act prohibits vaccine mandates for EUA products and further that the mandate violates provisions in the Code of Federal Regulations. The court has not yet issued a decision.
- **Firefighters4Freedom Foundation v. City of Los Angeles, No. 21STCV34490 (Ca. Super. Ct. Sept. 17, 2021)**: Plaintiffs, Los Angeles City firefighters, challenge the City’s COVID-19 employee vaccine mandate, arguing the requirement violates privacy protections and is *ultra vires*. The court has not yet issued a decision.
- **Harsman, et al. v. Cincinnati Children’s Hospital Medical Center, et al., No. 1:21-cv-00597 (S.D. Ohio Sept. 17, 2021)**: Plaintiff employees challenged the hospital’s employee COVID-19 vaccine mandate, arguing it violates Ohio anti-discrimination laws and constitutes an “illegal anti-poaching agreement.” On September 30, the court denied the plaintiffs’ motion for a temporary restraining order.
- **Pavlock, et al. v. Perman, M.D. et al., No. 1:21-cv-02376 (D. Md. Sept. 16, 2021)**: Plaintiffs challenge the University System of Maryland’s COVID-19 vaccination mandate, alleging it violates liberty interests protected by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments, as well as federal and state law and the precedent set in *Jacobson v. Massachusetts*. The court has not yet issued a decision.
- **The Clementine Company, LLC, et al. v. De Blasio, No. 1:21-cv-07779 (S.D.N.Y. Sept. 16, 2021)**: Plaintiff theaters/comedy clubs challenge New York City’s COVID-19 vaccination requirement to enter such venues, arguing the requirement violates free speech protections and equal protection. The court has not yet issued a decision.
- **Brnovich v. Biden, et al., No. 2:21-cv-01568 (D. Ariz. Sept. 14, 2021)**: Arizona Attorney General Mark Brnovich anticipatorily challenges an awaited OSHA rule which is expected to require employers with over 100 employees to mandate COVID-19 vaccination for employees, arguing that the rule will violate equal protection. The argument alleges that the rule will not apply to undocumented immigrants, despite the fact that the rule has not yet been published. The court has not yet issued a decision.

- ***Dr. A., et al. v. Hochul, et al., No. 1:21-cv-01009 (N.D.N.Y. Sept. 13, 2021)***: Plaintiff healthcare workers challenged a New York State Department of Health regulation requiring vaccination of health care professionals without a religious exemption. The court granted plaintiffs' requested temporary restraining order on September 14, 2021.
- ***Jason Burcham, et al. v. City of Los Angeles, et al., No. 2:21-cv-07296 (C.D. Cal. Sept. 11, 2021)***: Plaintiff employees of the City challenge the City's employee COVID-19 vaccination mandate, arguing it violates the Fourth and Fourteenth Amendments, the California Constitution's right to privacy, substantive due process guarantees of bodily integrity, and federal law. The court has not yet issued a decision.
- ***Does, et al. v. Hochul, et al., No. 1:21-cv-05067 (E.D.N.Y. Sept. 10, 2021)***: Plaintiffs challenge New York State's mandate that all state health care workers obtain COVID-19 vaccination without religious exemption. Pursuant to issuance of such a requested TRO in a similar case, *Dr. A. v. Hochul* (above), the court on September 14 found the plaintiffs' request moot.
- ***The New York City Municipal Labor Committee, et al. v. The City of New York, et al., No. 158368/2021 (N.Y. Sup. Ct. Sept. 9, 2021)***: Plaintiffs challenge New York's requirement for vaccination of Department of Education employees, arguing it violates federal and state law. On September 29, 2021, the court declined to block the vaccination mandate.
- ***Oregon Fraternal Order of Police, et al. v. Brown, No. 21CV35125 (County Court, Oregon, Sept. 3, 2021)***: Oregon state police officers [challenge](#) Governor Kate Brown's [state vaccine mandate](#), which requires vaccination for all state executive branch employees. Among other arguments, plaintiffs argue that the mandate violates constitutional free speech and free expression protections, constitutes wrongful termination, and further violates privileges and immunities, equal protection, due process, and separation of powers principles. On September 7, 2021, the case was removed to federal court. Plaintiffs subsequently filed an unopposed motion to remand to state court on September 10, 2021.
- ***Beckerich et al., v. Saint Elizabeth Medical Center, No. 1:21-CV-00576 (S.D. Ohio Sept. 3, 2021)***: Plaintiffs challenge Saint Elizabeth Medical Center's employee vaccination mandate, arguing the requirement violates the federal Rehabilitation Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act. Plaintiffs include various other challenges, including anti-trust violations. The plaintiffs voluntarily dismissed the action on September 10.
- ***We the Patriots USA, Inc., et al. v. Hochul, et al., No. 1:21-cv-04954 (E.D.N.Y. Sept. 2, 2021)***: Plaintiffs challenge New York State's requirement that health-care professionals in New York obtain COVID-19 vaccination without religious exemption. On September 12, the district court denied the plaintiffs' motion for TRO and preliminary injunction. Plaintiffs filed an interlocutory appeal. On September 30, citing *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020), the Second Circuit enjoined enforcement of the mandate against persons claiming religious exemptions.
- ***Dahl et al., v. The Board of Trustees of Western Michigan University et al., No. 1:21-CV-00757-PLM-SJB (W.D. Mich. Aug. 30, 2021)***: Plaintiffs challenge Western Michigan University's requirement that defendants obtain COVID-19 vaccination as a prerequisite to participate on the college soccer team. Plaintiffs argue the requirement violates the free exercise of religion and fourteenth amendment protections of the right to privacy. Plaintiffs also allege the requirement



violates the Michigan Constitution and constitutes discrimination in places of public accommodation. On August 31, 2021, the court granted plaintiffs' requested temporary restraining order on religious freedom grounds after requested religious exemptions were rejected. On September 13, the court granted plaintiffs' requested preliminary injunction. This order has been appealed to the Sixth Circuit. The Sixth Circuit declined to stay the injunction pending appeal on October 7.

- **Norris v. Stanley et al., No. 1:21-CV-00756 (W.D. Mich. Aug. 27, 2021)**: Plaintiff, an employee of Michigan State University, challenges the school's vaccination mandate, requesting an exemption for persons with COVID-19 antibodies. On August 31, the district court declined to issue a temporary restraining order.
- **Jane Does 1-6 et al., v. Mills, No. 1:21-CV-00242-JDL (D. Me. Aug. 25, 2021)**: Plaintiffs, unidentified health care workers in Maine, filed a class action lawsuit challenging the state's vaccine requirement for health care workers. Plaintiffs argue the requirement violates constitutional religious freedom protections, the Constitution's Supremacy Clause, the Equal Protection Clause, and Title VII of the Civil Rights Act. On August 26, 2021, the district court denied plaintiffs' request for a temporary restraining order.
- **Kheriaty v. The Regents of the University of California et al., No. 8:21-CV-01367 (C.D. Cal. Aug. 18, 2021)**: A physician at the University of California Irvine challenged the University's COVID-19 vaccine mandate, arguing the mandate violates constitutional protections of equal protection and substantive due process. On September 29, the court refused to issue an injunction to block the mandate. Plaintiff subsequently voluntarily dismissed the Regents of California as a defendant.
- **Magliulo v. Edward Via College of Osteopathic Medicine, No. 3:21-cv-02304 (W.D. La. Aug. 17, 2021)**: Plaintiffs, current and entering students at the Edward Via College of Osteopathic Medicine, [challenge the school's COVID-19 vaccination requirement](#), arguing it contravenes state law as well as state and federal constitutional arguments based in the right to bodily integrity and the right to religious freedom. On August 17, 2021, the court [granted the students' requested TRO](#). Louisiana law permits exclusion of unvaccinated students at the recommendation of the Louisiana Department of Public Health, and no such recommendation had been provided. In the absence of this recommendation, and pursuant to another Louisiana provision, a student may not be subjected to a vaccination requirement if a written dissent is presented by the student. Additionally, with respect to Louisiana constitutional protections regarding the freedom of religion, paired with a Louisiana law requiring application of strict scrutiny, the court reasoned the College was unlikely to be able to show that it had used the least restrictive means of forwarding its interest.
- **Children's Health Defense, Inc. et al. v. Rutgers et al., No. 3:21-CV-15333-MAS-TJB (U.S. Dist. Ct., D.N.J. Aug. 16, 2021)**: Plaintiffs challenge Rutgers' COVID-19 vaccination mandate as, among other arguments, being preempted by federal law, violating state law, and violating equal protection, informed consent, and the right to refuse medical treatment under the U.S. Constitution's 14<sup>th</sup> Amendment and the New Jersey Constitution, Article I. The court has not yet issued a decision. On September 27, 2021, the court denied the motion for temporary restraining order without prejudice, finding the plaintiffs unlikely to succeed on the merits, unable to demonstrate irreparable harm, and that the public would be likely harmed by issuance of injunctive relief.

- ***Hencey, et al. v. United Airlines, et al., No. 0:21-CV-61702 (S.D. Fla. Aug. 14, 2021)***: Plaintiff employees of United Airlines challenged the company's COVID-19 vaccine employee mandate. The specific grounds of the challenge are not immediately clear, as the complaint invokes several provisions of the Constitution, including the preamble, and several disparate EEO provisions. On August 17, 2021, the court declined to grant a TRO, finding the complaint inoperative. The case was dismissed without prejudice on September 16, 2021.
- ***Pelekai v. State of Hawai'i, No. 1:21-CV-00343 (D. Haw. Aug. 13, 2021)***: Plaintiff first responders in Hawai'i filed a class action challenging the state's COVID-19 vaccine mandate in Oahu and Maui, arguing the requirement is preempted by and violates federal law, violates substantive and procedural due process, equal protection, the 5<sup>th</sup> Amendment right to bodily integrity, and free exercise protections. The court has not yet reached a decision.
- ***Garfield v. Middle Tennessee State University et al., No. 3:21-cv-00613 (M.D. Tenn. Aug. 6, 2021)***: Plaintiffs [challenge the University's COVID-19 vaccine mandate](#) as unlawful under the FDCA and request that the court issue a temporary and permanent injunction enjoining the policy. On September 1, 2021, the court denied the plaintiff's motion for temporary restraining order, finding failure to demonstrate irreparable harm.
- ***Zywicki v. Washington et al., No. 1:21-CV-00894 (E.D. Va. Aug. 3, 2021)***: A teacher employed at George Mason University in Virginia [challenges the university's policy](#) requiring unvaccinated employees to engage in masking, social distancing, and testing, among other requirements. The plaintiff alleges violations of constitutional rights to privacy and due process, as well as a violation of the Supremacy clause, among other arguments. On August 20, the case was voluntarily dismissed.
- ***Harris v. University of Massachusetts Lowell et al., No. 1:21-cv-11244 (D. Mass. July 30, 2021)***: Plaintiffs, students at the University of Massachusetts Lowell and University of Massachusetts Boston, [challenge the school's COVID-19 vaccination mandates](#) as violating constitutional due process and religion protections, among other arguments. On August 27, the court denied plaintiffs' requested preliminary injunction and allowed dismissal, rejecting procedural and substantive due process arguments, and explaining there is no constitutional requirement to offer religious exemptions. The case has been appealed to the First Circuit.
- ***America's Frontline Doctors et al. v. Wilcox et al., No. 5:21-cv-01243 (C.D. Ca. July 26, 2021)***: Plaintiff students enrolled at the University of California [challenge the university's COVID-19 vaccination mandates](#) generally and across specific campuses, arguing violations of constitutional rights to bodily integrity, freedom from state created danger, and violations of state law. On July 30, 2021, the court denied the ex parte application for TRO. A petition for mandamus has been filed in the 9<sup>th</sup> Circuit. The 9<sup>th</sup> Circuit rejected mandamus relief on August 11, 2021. Plaintiffs have requested mandamus relief from the Supreme Court.
- ***Khantaphixay et al. v. Loyola Marymount University et al., No. 2:21-cv-06000 (C.D. Cal. Jul. 24, 2021)***: Plaintiffs, undergraduate students at Loyola Marymount University, [challenge Loyola Marymount's vaccine mandate](#), arguing in part that even though there are exemptions to the policy, those who are unvaccinated must submit to unique university conditions, including living in separate dormitories. Claims include 42 U.S.C. § 1983 claims pursuant to the 14<sup>th</sup> Amendment's equal protection clause, the 1<sup>st</sup> Amendment protection of the right to free exercise,

and the 4<sup>th</sup> Amendment's protection of privacy, as well as California Constitutional arguments. Plaintiffs request the university be enjoined from enforcing the mandate and request damages from the university for breach of contract. On August 9, 2021, the court denied plaintiff's ex parte application for TRO.

- ***Doe 1 et al. v Incyte Corporation, No. 2:21-CV-05956 (C.D. Cal. July 22, 2021)***: This action, regarding an employer vaccine mandate challenge, has been removed to federal court. Allegations include violation of bodily autonomy interests, privacy interests related to informed consent, and allegations of unfair business practices. The court has not yet issued a decision. On September 6, the case was voluntarily dismissed by plaintiffs.
- ***International Brotherhood of Teamsters, Local 743 v. Central States Southeast and Southwest Areas Health and Welfare and Pension Funds, No. 1:21-cv-03840 (N.D. Ill. Jul. 19, 2021)***: Plaintiff, a workers' union, requests [declaratory and injunctive relief](#) against defendant, a company mandating the COVID-19 vaccine for its employees. Under defendant's policy, employees who refuse the vaccine may be subject to lost paid time off and potential termination. Employees plead for injunctive relief from the policy until an arbitrator has been involved. The court [denied](#) plaintiffs' motion for preliminary injunction on August 3, 2020.
- ***Klaassen et al. v. The Trustees of Indiana University, No. 1:21-cv-00238-DRL-SLC (Dist. Ct. N.D. Ind. July 18, 2021)***. Plaintiffs, students at Indiana University, argued that the University's vaccine mandate was unconstitutional in violation of the 14<sup>th</sup> Amendment's liberty interest in bodily autonomy. On [July 18, 2021](#), the court denied the students' request for preliminary injunction, concluding that "the Fourteenth Amendment permits Indiana University to pursue a reasonable and due process of vaccination in the legitimate interest of public health for its students, faculty, and staff." On August 2, the 7<sup>th</sup> Circuit Court of Appeals [refused to issue an injunction pending appeal](#). On August 12, 2021, [the U.S. Supreme Court denied](#) a request for immediate injunctive relief.
- ***Norwegian Cruise Line Holdings Ltd. et al. v. Rivkees, M.D., No. 1:21-cv-22492-KMW (S.D. Fla. Jul. 13, 2021)***: Plaintiffs, multiple cruise lines, seek [declaratory and injunctive relief](#) against Florida's Surgeon General, challenging state law *preventing* COVID-19 vaccination requirements, which it seeks to mandate for cruise line passengers. On August 8, 2021, [the federal district court issued a preliminary injunction](#) against application of the Florida law to the plaintiffs, concluding that the law violated the Dormant Commerce Clause as well as the First Amendment's protection of free speech. A notice of appeal has been filed in the 11<sup>th</sup> Circuit, and further action stayed in the district court until resolution of the appeal in the 11<sup>th</sup> Circuit.
- ***McCutcheon v. Enlivant ES, LLC, No. 5:21-cv-00393 (S.D. W. Va. Jul. 9, 2021)***. This docket consists of a removal of a state case to federal court. Plaintiff argues that she faced "retaliatory discharge" from her employment for refusing the COVID-19 vaccine. The court has not yet issued a decision.
- ***Wade et al. v. University of Connecticut Board of Trustees, No. 3:21-cv-00924 (D. Conn. Jul. 6, 2021)***: Plaintiffs, students at University of Connecticut, allege that the university's vaccine mandate violates state and federal laws, as well as the Constitution. Plaintiffs [request](#) the mandate be declared unconstitutional and the university be enjoined from enforcing it. Specific counts include violations of students' 14<sup>th</sup> Amendment procedural and substantive due process rights and accompanying 42 U.S.C. § 1983 claims as well as violation of informed consent. On

August 16, 2021, the court [dismissed the case](#) for lack of jurisdiction on mootness and standing grounds.

- ***Higley, et al. v. CA State University et al., No. 2:21-cv-01126-TLN-JDP (Dist. Ct. E.D. Cal. June 24, 2021)***. Plaintiffs, students at the California State University, Chico who recovered from COVID-19, sued the school, arguing that the school's vaccination mandate could place them "at risk of death or serious illness." Plaintiffs raise California Constitution and Federal Constitution 14<sup>th</sup> Amendment claims arguing the vaccine violates liberty interests of bodily autonomy, among other arguments. California State University filed a motion to dismiss on August 9, 2021. On August 19, the case was [voluntarily dismissed without prejudice](#).
- ***Bridges et al. v. The Methodist Hospital et al., No. 4:21-CV-01774, 2021 WL 2221293 (Dist. Ct. S.D. Tex. June 1, 2021)***. Plaintiffs, 116 former and current employees of The Methodist Hospital system in Houston, Texas, allege they have been, or are in danger of being, terminated for refusing the COVID-19 vaccine after defendants required it. Plaintiffs seek relief, claiming a mandate cannot be applied to vaccines under EUA. On [June 1, 2021](#), defendants requested federal removal. Non-vaccinated employees subsequently [were suspended](#), and the hospital set a June 21 deadline for either vaccination or termination. On June 12, 2021, the case was [dismissed](#); the court reasoned in part that language in the Food, Drug, and Cosmetic Act did not prevent employer mandates. On [June 14](#), plaintiffs filed a notice of appeal to the Fifth Circuit. The Fifth Circuit has not yet issued a decision.
- ***Neve v. Birkhead et al., No. 1:21-CV-00308 (Dist. Ct. M.D.N.C. Apr. 16, 2021)***. Plaintiff, a former employee of the Durham County Sheriff's Office, requested [declaratory and injunctive relief](#) after he was terminated for refusing the COVID-19 vaccine. Defendants had circulated a memo declaring employment was contingent upon vaccination. Plaintiff asserts vaccine mandates are not permissible for vaccines subject to EUA authorization and additionally claims violation of due process. This complaint was voluntarily dismissed by the plaintiff on [June 28](#).
- ***California Educators for Medical Freedom et al v. Los Angeles Unified School District et al., No. 21-CV-02388 (C.D. Cal. Mar. 17, 2021)***. Plaintiffs [seek injunctive relief](#) after a school district implemented a policy mandating that all employees be vaccinated against COVID-19. According to the policy, "any refusal to be vaccinated by April 2021 will result in a job detriment, up to and including termination from employment." On July 27, 2021, [the court dismissed the case without prejudice on ripeness grounds](#), concluding that there has not yet been any injury, as the policy did not require COVID-19 vaccination for employees, but rather required employees to "either receive the vaccine or be tested for COVID-19."
- ***McClure et al v. Saunders et al, No. 2:21-CV-00148 (D. Utah Mar. 10, 2021)***. Plaintiffs sued on behalf of their minor children, [requesting injunctive relief](#) after the Utah Department of Health issued an order permitting schools to implement mandatory COVID-19 testing as a condition of in-person learning. Plaintiffs allege the mandate is unconstitutional and a violation of their individual rights. The case was dismissed with prejudice on April 22, 2021, after Utah's Governor signed a bill (SB 107) allowing students refusing COVID-19 testing to participate in in-person learning.
- ***Legarreta v. Macias et al, No. 2:21-CV-00179 (D.N.M. Feb. 28, 2021)***. A New Mexico detention center officer sued a county manager and his supervisors over a workplace requirement for first responders to be inoculated with the COVID-19 vaccine. He sought a court order barring the

county from terminating him. The court denied the request for a temporary restraining order without notice. On March 19, 2021, the plaintiff [withdrew](#) his application for a TRO. On June 3, 2021, the defendants filed a motion to dismiss, which plaintiff responded to on June 28, and defendants replied to on July 12.

- **[O’Neill et al. v. Person Directed Supports, Inc., No. 5:21-CV-00309 \(E.D. Pa. Jan. 22, 2021\)](#)**. Plaintiff employees sued defendant Person Directed Supports, Inc. after the defendant instituted a COVID-19 vaccine mandate for staff. Plaintiffs argued that federal law prohibits mandating vaccines subject to an EUA. Note: this complaint was voluntarily dismissed after defendants rescinded the mandate.
- **[Mary Maxwell v. U.S. Sec’y of Def. Chris Miller, in his official capacity, et al., No. 20-CV-1193-PB, 2021 WL 1396634, at \\*2 \(D.N.H. Jan. 14, 2021\)](#)**. Plaintiff sought [injunctive relief](#) to protect herself from mandatory vaccination for COVID-19, but a magistrate judge issued a report, recommending that the district judge dismiss the complaint, because the plaintiff failed to show any actual or imminent direct injuries when “there is at this moment no law directing [her] to be mandatorily injected” with a vaccine for COVID-19. On [February 1](#), a district judge accepted the report and dismissed the complaint in its entirety.

**Note** – multiple different media [reports](#) nationally suggest the potential or actual filing of additional cases focused on challenges to vaccine mandates.

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