

Hospital may require its employees to be vaccinated, court holds

By Jonathan Trafimow

A federal judge ruled that Houston Methodist Hospital (the “hospital”) could lawfully implement a policy that all employees be vaccinated against Covid-19.

- The court rejected the claim that requiring a Covid-19 vaccine is an “illegal act” but rather is an inoculation that, “in the hospital’s judgment, will make it safer for their workers and the patients in [its] care”. The court noted the Equal Employment Opportunity Commission’s (EEOC) guidance that, while “not binding”, provides that “employers can require employees be vaccinated against Covid-19 subject to



reasonable accommodations for employees with disabilities or

sincerely held religious beliefs that preclude vaccination”.

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- The court rejected the employees’ claim that receipt of a Covid-19 vaccine makes them “human subjects”, “violates the Nuremberg Code”, and is akin to “forced medical experimentation during the Holocaust”. The court explained: “Equating the injection requirement to medical experimentation in concentration camps is reprehensible. Nazi doctors conducted medical experiments on victims that caused pain, mutilation, permanent disability, and in many cases, death.”
- The court rejected the employees’ argument that the hospital’s policy was “coercion”, explaining that employees “can freely choose to accept or refuse a

Covid-19 vaccine; however, if [they refuse, they] will simply need to work somewhere else”.

On or about 22 June 2021, approximately 153 hospital employees resigned or were fired, according to news reports.

Employer Takeaways

Employers should be aware of the nature of the hospital’s business – providing health care – and consider whether different factors could lead a different court to reach a different ruling. While the court referenced

the EEOC’s guidance as support for upholding the hospital’s policy, it also stated that the court was not bound by it, suggesting that a future judge might freely disagree with the ruling.