

# The courts continue to uphold employer vaccine requirements

[Houston Methodist Hospital](#) was the first health care employer to be sued for giving employees an ultimatum: Get the covid-19 vaccine or get a new job. It fired more than 100 employees. Since then, many employers, not just in the health-care sector, are giving employees the same choice.

- United Airlines says will fire about 600 unvaccinated employees, although the actual number may be less.
- A North Carolina health care system plans to suspend around 375 unvaxxed employees.

But the real story is that employer vaccine mandates are working and employees haven't been able to stop them — so far.

## ***Beckerich v. St. Elizabeth Medical Center***

In this case, employees wanted a temporary restraining order and a preliminary injunction barring their employer from requiring them to get the shot. The hospital's policy, following the EEOC's guidance, required employees to either get the shot or apply for a medical or religious exemption. Leaving aside, for now, plaintiffs' constitutional arguments, they alleged the hospital hadn't granted any exemptions.

A federal trial court didn't grant the TRO or the preliminary injunction.

The core issue in this case, according to the court, is succinct and should sound pretty familiar by now: whether a private employer can modify its employment conditions to require its employees to be vaccinated in response to an unprecedented global pandemic. This court answered this question in the affirmative.

*ADA claim:* Employees alleged the employer "corrupted" the process under which they could apply for a medical exemption and didn't provide them with an appeal process if their request was denied. Employees never developed their corruption allegations into a coherent argument and the hospital's evidence showed that of the 232 requests received, 13.36% were granted, 64.6% were deferred, 14.66% were denied and 10.34% were pending.

*Court:* The hospital granted more medical accommodations than there were plaintiffs in the case. In addition, the court said employees suffered no adverse employment decisions because of their disability.

*Court:* The complete lack of adverse employment effects suffered by these employees inhibits their ability to establish a *prima facie* case under the ADA.

*Title VII claim:* The employees' religious discrimination case failed as well, because, as the court pointed, 40 employees were granted exemptions based on their religious beliefs. Furthermore, the court noted, no employee was denied a religious exemption.



## The takeaways

*First takeaway:* Employees will most likely ask for a religious exemption, rather than a medical exemption, because the criteria for religious exemptions are looser. We've dealt with [religious exemptions here](#).

*Second takeaway:* These employees also made constitutional arguments. You should become familiar with them, since you might be confronting them soon.

### The employees argued:

- They have a constitutional right to privacy.
- Their individual liberties include the right to be employed by a private employer without being vaccinated.

The court was unpersuaded.

And this brings up a larger point that often gets lost in the vaccination wars — employees who work for private employers don't have constitutional rights, as we think of them.

There are laws, like Title VII and the ADA, which may be based on the Fourteenth Amendment's Equal Protection clause. There are also a whole slew of other federal and state laws that limit your authority over your employees and provide employees with causes of action if you go too far. But laws aren't the same thing as saying a private employer violated one's constitutional rights.