



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Pa. Medical Center Gets Ex-Workers' Vax-Or-Test Suit Tossed

By **Abby Wargo**

Law360 (August 26, 2022, 6:42 PM EDT) -- A Pennsylvania federal judge on Friday tossed a proposed class action by former employees against a regional health care provider accusing it of unlawfully firing them after they refused to either get a COVID-19 vaccine or submit to regular testing, unconvinced by their "anti-vaccine hocus-pocus" evidence.

U.S. Chief District Judge Matthew W. Brann's **opinion** granted Geisinger Clinic's motion to dismiss the former employees' suit alleging they were discriminated against for refusing to get vaccinated, in accordance with their religious beliefs. The proposed class claimed violations of Title VII of the Civil Rights Act, the Fifth and 14th Amendments and various state laws.



A Pennsylvania clinic was granted a motion to dismiss a proposed class action filed by ex-employees who sought exemption from the clinic's COVID-19 vaccine or test requirements, based on the group's "hocus-pocus" evidence, a federal judge said. (AP Photo/Matt Rourke)

Judge Brann said the 100-member proposed class, now led by plaintiff Christine Finkbeiner, presented nothing more than "a collection of distorted statements" as evidence, angling for a "modern-day Scopes trial."

"She believes that COVID-19 vaccines and tests are a hoax. And she wants this court to vindicate her views, overturn Geisinger's policy and find that she and her colleagues should have been allowed to work

— unvaccinated and untested," Judge Brann said in Friday's opinion. "But courts cannot simply weigh in on every issue an employee has with its employer's policy. There must be a legal hook. And she has not provided one."

Geisinger had contended that Finkbeiner and the other former workers' claims show their opposition to receiving COVID-19 tests or vaccines is medical, not religious, and therefore could not hold up a religious bias claim.

Judge Brann agreed, saying that Finkbeiner's statement declining to either receive a vaccine or submit to regular testing focuses on her free will and her belief that vaccines and tests are harmful, rather than any religious opposition. The judge said in Friday's order that not everything the workers believe about healthy living counts as a religious practice in the eyes of the law.

The constitutional claims have no merit, either, the judge said, because Geisinger was not an official actor of the state or country that could be held responsible.

"The Pennsylvania Department of Health's duty to protect the health of the people and employ the most effective methods of disease suppression is not exclusive," Judge Brann said in the order. "The statute's plain language provides no such limitation. And Finkbeiner's allegations in no way suggest that health care providers are, or ever have been, prohibited from doing more than the state-mandated minimum to protect their patients and staff."

The former workers' infliction of emotional distress claims also fail, Judge Brann said, because "there was no gun-to-the-head, needle-to-the-shoulder, or swab-to-the-nostril moment." Geisinger's vaccination choice was not an extreme or outrageous request to ask employees, and Finkbeiner's refusal to do that "at most" amounts to a wrongful dismissal, he said in Friday's order.

Judge Brann had shot down Geisinger's summary judgment request in May 2022, ruling that it was premature, and told the workers to amend their complaint a third time, after which Finkbeiner became the class representative.

More than 75 former employees originally brought the suit in November 2021 seeking an injunction to prevent Geisinger from requiring unvaccinated employees to be tested two times a week for COVID. Judge Brann denied that request.

"We are pleased the court has ruled in favor of keeping our patients, staff and communities as safe as possible throughout this COVID-19 pandemic," a Geisinger spokesperson said in a statement Friday.

Representatives for the former workers did not immediately respond to a request for comment Friday.

The former workers are represented by Gregory A. Stapp of Stapp Law LLC.

Geisinger is represented by Anthony Andrisano Jr., Jared L. Pickell and Jill M. Lashay of Buchanan Ingersoll & Rooney PC.

The case is Finkbeiner et al. v. Geisinger Clinic et al., case number 4:21-cv-01903, in the U.S. District Court for the Middle District of Pennsylvania.

--Editing by Khalid Adad.