

Just When You Thought COVID is Over: A \$12.69 Million Verdict

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November 21, 2024

The battle over COVID-19 vaccine mandates is far from over. A Michigan federal jury recently awarded \$12.69 million in damages to Lisa Domski, a former Blue Cross Blue Shield of Michigan (BCBS) employee, who claimed she was unjustly terminated after the company denied her religious exemption request from its vaccine mandate (*Lisa Domski v. Blue Cross Blue Shield of Michigan*).

Domski, who had worked at BCBS for over 30 years, was an IT process specialist when the company implemented a vaccine mandate in late 2021, affecting both in-office and remote workers. As a practicing Catholic, Domski requested an exemption, citing her belief that the vaccine conflicted with her religious convictions due to its association with aborted fetal cell lines.

She argued that taking the vaccine would "harm her relationship with God" and violate her faith. However, BCBS denied her request, placed her on unpaid leave, and ultimately terminated her in January 2022.

BCBS defended its actions by claiming that Domski hadn't participated in a follow-up interview to discuss her exemption request, which they argued was necessary to evaluate her religious beliefs. The company contended that the denial was based on the facts from this interview, in line with EEOC guidance.

The jury disagreed. After a four-day trial, they sided with Domski, finding that BCBS had discriminated against her by failing to provide a reasonable religious accommodation. The jury awarded Domski \$10 million in punitive damages and \$2.69 million in compensatory damages, including back and front pay.

While the employer likely has its side of the story and will likely challenge the verdict, this case serves as a warning to employers still enforcing vaccine mandates.

Key Takeaways for Employers:

- **Be Flexible with Accommodations:** Before denying a religious exemption, offer employees an opportunity to present their case. Make sure you have carefully considered alternatives to the vaccine, before there is discipline.
- **Document the Reasons for Denial:** Ensure that any denial of accommodation is based on valid, objective reasons, and that all communications are documented.
- **Consider Alternatives to Termination:** Especially with long-tenured employees, explore all options before resorting to termination.

- **Think Carefully About Older Employees:** Terminating older or long-serving employees carries additional risk, of both an age and religious discrimination claim

As the lower courts continue to grapple with the issues of religious accommodation in the wake of the *Groff* decision, this case highlights the ongoing complexities of this issue in the workplace, especially as vaccine mandates remain a contentious issue. Clearly, COVID is NOT over and debate over vaccines is likely to continue for years to come.