

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KIMBERLY KAVANAGH, COLLEEN)		
HOLEWA, and CANDICE SOCHACKI))	
)	
)	
Plaintiffs,))	Case No.
)	
v.))	
)	
NORTHWESTERN MEMORIAL))	
HEALTHCARE and NORTHWESTERN))	
MEDICINE PALOS HOSPITAL))	
)	
Defendants.))	

COMPLAINT

For their COMPLAINT against Defendants, NORTHWESTERN MEMORIAL HEALTHCARE and NORTHWESTERN MEDICINE PALOS HOSPITAL (“Northwestern Medicine” or “Defendants”), Plaintiffs KIMBERLY KAVANAGH, COLLEEN HOLEWA, and CANDICE SOCHACKI (“Plaintiffs”), allege and aver as follows:

INTRODUCTION

1. Plaintiffs are former nurses with sincerely held religious beliefs against the COVID-19 vaccines. After Northwestern Medicine imposed a mandatory COVID-19 vaccination requirement on all employees, Plaintiffs each submitted a religious exemption application. Northwestern Medicine denied each of the Plaintiffs’ religious exemption requests because Northwestern Medicine did not believe Plaintiffs articulated valid religious beliefs or that the articulated beliefs were sincere.

2. Northwestern Medicine determined that Plaintiffs’ stated beliefs were not valid, or were not sincere, even though it granted religious exemption requests for numerous similar

religious beliefs articulated by other employees. Northwestern Medicine also denied the validity and sincerity of Plaintiff Sochacki's beliefs, even though it previously accepted her religious beliefs for purposes of obtaining an exemption from the flu vaccine in prior years.

3. Because of Northwestern Medicine's unlawful actions in denying Plaintiffs' meritorious religious exemption requests, Plaintiffs faced an immediate "choice" to either (a) receive a COVID-19 vaccination in direct violation of their conscience and sincerely held religious beliefs, or (b) be terminated from employment with Northwestern Medicine.

4. As a testament to the validity and sincerity of their religious beliefs, Plaintiffs held true to those beliefs and were each terminated by the Northwestern Medicine.

PARTIES

5. Plaintiff Kimberly Kavanagh, age 49, is a former nurse stationed at Northwestern Medicine Palos Hospital.

6. Plaintiff Colleen Holewa, age 54, is a former nurse stationed at Northwestern Medicine Palos Hospital.

7. Plaintiff Candice Sochacki, age 40, is a former nurse stationed at Northwestern Medicine Palos Hospital.

8. Defendant Northwestern Memorial Healthcare is a nonprofit healthcare system which oversees, manages, or operates numerous hospitals, acute care facilities, and academic centers. Upon information and belief, Northwestern Memorial Healthcare also operates under the name "Northwestern Medicine."

9. Defendant Northwestern Medicine Palos Hospital is a member or subsidiary of Northwestern Memorial Healthcare, or "Northwestern Medicine," and is located at 12251 S 80th Ave, Palos Heights, IL 60463.

JURISDICTION AND VENUE

10. This action arises under the laws of the United States, specifically, 42 U.S.C. § 2000e, *et seq.*

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1343.

12. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(1)(2) because Defendants are headquartered in Cook County and a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

13. This Court is authorized to grant declaratory judgment under the Declaratory Judgment Act, 28 U.S.C. §§2201-02, implemented through Rule 57 of the Federal Rules of Civil Procedure.

GENERAL ALLEGATIONS

A. BACKGROUND.

14. Plaintiff Kimberly Kavanagh began working for Northwestern Medicine in 2001 as a nurse.

15. Plaintiff Colleen Holewa began working for Northwestern Medicine in 2005 as a nurse.

16. Plaintiff Candice Sochacki began working for Northwestern Medicine in 2011 as a nurse.

17. At all relevant times during their employment with Northwestern Medicine, the Plaintiffs were dedicated employees who earned positive reviews from their employer.

18. Beginning in early 2022, a global outbreak of a virus now referred to as COVID-19 began to emerge.

19. COVID-19 was officially declared a pandemic by the World Health Organization in March 2022.

20. At that time, great efforts were made by the public and private sector alike to develop a vaccine.

21. To combat the spread of the virus, public health experts opined that the public should practice social distancing, wear masks, and isolate if showing symptoms of COVID-19. Employers across the country began requiring employees to practice these measures, and many also began permitting remote work.

22. The U.S. Food and Drug Administration eventually granted Emergency Use Authorization for a COVID-19 vaccine, the Pfizer-BioNTech vaccine, on December 11, 2020. The Moderna vaccine was granted Emergency Use Authorization on December 18, 2020, followed by the Johnson & Johnson vaccine on February 27, 2021.

23. With vaccines available to the general public, employers began to mandate that employees get vaccinated or else suffer adverse employment action such as being placed on unpaid leave or being terminated.

24. Northwestern Medicine did not initially require that employees obtain a COVID-19 vaccine. Throughout most of the pandemic, Northwestern Medicine allowed its employees to continue working by encouraging safety measures such as masking and social distancing.

25. Plaintiffs, like many other employees, continued to work throughout the pandemic and were viewed as essential workers and eventually proclaimed as heroes. Plaintiffs worked the COVID unit since the beginning of the pandemic.

B. THE MANDATORY COVID-19 VACCINATION POLICY.

26. On August 25, 2021, Northwestern Medicine for the first time announced, approximately nine months after the first vaccine was authorized, that all employees were required to be fully vaccinated against COVID-19.

27. One month prior to the Northwestern Medicine's vaccine mandate, the CDC released a study which found that vaccinated individuals still spread the virus and stated that there was "no significant difference in the viral load present in the breakthrough infections occurring in fully vaccinated people and the other cases, suggesting the viral load of vaccinated and unvaccinated persons infected with the coronavirus is similar."¹

28. The mandatory COVID-19 Vaccination Policy did not take into account individuals who have already recovered from COVID-19 and thus had antibodies or natural immunity, nor did it take into account alternative measures such as face coverings, personal protective equipment, self-monitoring and reporting of symptoms, or periodic testing.

29. At that time, the Northwestern Medicine's mandatory COVID-19 Vaccination Policy was at odds with the Federal government's policy allowing certain large employers to mandate vaccination *or* periodic testing for their employees.

30. The mandatory COVID-19 Vaccination Policy also differed substantially from the European Union's digital COVID-19 certificate, which considered the following as equivalent: (1) a COVID-19 vaccine; (2) a negative COVID-19 test; or (3) having previously recovered from COVID-19. See *EU Digital COVID Certificate*, EUROPEAN COMMISSION, https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/eu-digital-covid-certificate_en.

¹ <https://www.npr.org/sections/coronavirus-live-updates/2021/07/30/1022867219/cdc-study-provincetown-delta-vaccinated-breakthrough-mask-guidance>

31. In order to obtain a religious exemption from the mandatory COVID-19 Vaccination Policy, employees had to complete an “Accommodation Request Questionnaire.”

32. Plaintiffs each completed and submitted their religious exemption applications, which are attached to this pleading as **Exhibit A**.

33. In their religious exemption applications, Plaintiffs cited various Bible verses such as 1 Corinthians 3:16-17, Exodus 15:26, Romans 14:22-23, and Psalm 41:3 and explained in various ways that their bodies were temples of the Holy Spirit, that they have prayed and were instructed by the Holy Spirit on their decision, and that they were required to put their trust in God for healing.

34. Despite the explanation of Plaintiffs’ religious beliefs, Northwestern Medicine denied each of those exemptions informing each of the Plaintiffs that:

“Your request does not identify religious beliefs, practices and/or observances that prevent you from, receiving one of the FDA-approved vaccinations for COVID-19.”; and/or

“Your request does not identify religious beliefs, practices, and/or observances that are sincerely held.”

35. The denials also informed Plaintiffs that the decisions were “final.” **Exhibit B, Denials.**

36. At no point did Northwestern Medicine engage with the Plaintiffs in an interactive process to determine whether an accommodation was possible or to discuss that nature of Plaintiffs’ religious beliefs.

37. Despite Northwestern Medicine’s insistence that every employee had to be vaccinated, Northwestern Medicine provided numerous religious exemptions, including to many employees working on the same floor as the Plaintiffs.

38. And although Northwestern Medicine questioned the validity and sincerity of Plaintiffs' religious beliefs, it granted religious exemptions to employees who submitted similar exemption applications with the same or similar religious beliefs.

39. For example, Plaintiffs are aware of at least one employee who obtained a religious exemption without even submitting the required form. Plaintiffs are aware of another employee who received a religious exemption after simply writing that "vaccines is a betrayal of my faith and beliefs in my God. My God is my King and my healer. Accepting vaccines interferes in my relationship with God and His healing power, therefore making me less dependent on Him." Another employee received a religious exemption after stating that she must trust in the Lord, and cited Exodus 15:26 ("I am the Lord who heals you"), which is the same verse cited by Plaintiff Kavanagh.

40. Plaintiffs' religious beliefs are similar to and mirror, not verbatim but in doctrine, many of the ones that Northwestern Medicine accepted from other employees. Yet, Northwestern Medicine did not accept Plaintiffs' stated beliefs.

41. Moreover, Northwestern Medicine denied Plaintiff's Sochacki's religious exemption and refused to accept her stated religious beliefs, even though it previously granted Ms. Sochacki a religious exemption from the flu vaccine in prior years.

42. Even more, because Northwestern Medicine faced a severe worker shortage, it regularly hired outside contract nurses who were not vaccinated, and those nurses were allowed to work with exemptions from the mandatory COVID-19 vaccine policy. (In fact, the worker shortage was so severe that while Plaintiffs were waiting for a decision on their exemption requests, Northwestern Medicine begged them to work extra shifts. During staff meetings, Plaintiffs were repeatedly asked if they knew any nurses who could work at the hospital).

43. Northwestern Medicine's application of its mandatory COVID-19 policy was inconsistent, contradictory, and discriminatory.

44. Since Plaintiffs were terminated, companies across the U.S. as well as federal and local governments have lessened restrictions, and COVID-19 cases have dropped significantly. Indeed, on August 11, 2022, the Center for Disease Control and Prevention ("CDC") significantly revised its COVID-19 prevention recommendations. The CDC Guidance and recommendations "no longer differentiate based on a person's vaccination status." Thus, the new CDC Guidance uniformly applies the same recommendations for all individuals regardless of vaccination status.

45. Plaintiffs have continued to hold true to their beliefs and continued to refuse, and to this day have refused, to obtain a COVID-19 vaccine.

D. PLAINTIFFS' WILLINGNESS TO COMPLY WITH ALTERNATIVE SAFETY MEASURES.

46. Plaintiffs have always been willing to comply, and did comply (weekly testing and masking), with all other reasonable alternatives to compliance with the mandatory COVID-19 Vaccination Policy.

47. Plaintiffs were willing to and would have complied with all requirements to wear a mask, if necessary, as a part of the reasonable accommodation for their sincerely held religious objection to the mandatory COVID-19 Vaccination Policy.

48. Plaintiffs were willing to and would have complied with surveillance testing protocols as part of their reasonable accommodation for their sincerely held religious objection to the mandatory COVID-19 Vaccination Policy.

49. Plaintiffs were willing to and would have complied with all self-monitoring, self-reporting, or other reasonable safety protocols to monitor and report any sign of symptoms or other

issues, as part of their reasonable accommodation for their sincerely held religious objection to the mandatory COVID-19 Vaccination Policy.

50. Plaintiffs were willing to and would have complied with any reasonable request to accomplish their pursuit of obtaining a reasonable accommodation for their sincerely held religious objection to the mandatory COVID-19 Vaccination Policy.

51. In addition, each of the Plaintiffs at one point tested positive for COVID-19 and fully recovered, carrying with them natural antibodies thereafter.

COUNT I – VIOLATION OF TITLE VII, 42 U.S.C. § 2000e, et seq.

52. Plaintiffs hereby reallege and adopt each and every allegation in paragraphs 1-51 as if fully set forth herein.

53. Title VII of the Civil Rights Act of 1964 prohibits Northwestern Medicine from discriminating against its employees on the basis of their sincerely held religious beliefs. *See* 42 U.S.C. §2000e-2(a)

54. Plaintiffs hold sincere religious beliefs that preclude them from receiving a COVID-19 vaccine.

55. Plaintiffs informed Northwestern Medicine of those beliefs and requested religious exemptions and reasonable accommodations from the vaccine mandate.

56. Northwestern Medicine failed to provide Plaintiffs with religious exemptions and reasonable accommodations questioning the validity and sincerity of their beliefs, even though it granted exemptions to many other employees who articulated similar religious beliefs.

57. Northwestern Medicine failed to engage in the interactive process with each of the Plaintiffs and never offered Plaintiffs a reasonable accommodation.

58. Northwestern Medicine's failure to provide religious exemptions and accommodations has harmed and will continue to harm the Plaintiffs.

59. Plaintiffs have filed charges with the EEOC complaining of these discriminatory actions and each has received a "Right to Sue" letter. **Exhibit C.**

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for relief as follows:

- A. That this Court render a Declaratory Judgment declaring that the Northwestern Medicine's mandatory COVID-19 Vaccination Policy, as applied to the Plaintiffs, is illegal and unlawful under Title VII, 42 U.S.C. § 2000e, *et seq*, and further declaring that:
 - a. by terminating Plaintiffs from employment, Northwestern Medicine has unlawfully discriminated against the Plaintiffs, on account of sincerely held religious objections to receiving or accepting one of the three COVID-19 vaccines.
- B. That this Court award Plaintiffs actual damages in an amount to be proven at trial, including those for backpay, front pay, emotional distress, and pain and suffering, that Plaintiffs sustained as a result of the Northwestern Medicine's actions.
- C. That this Court adjudge, decree, and declare the rights and other legal obligations and relations within the subject matter here in controversy so that such declaration shall have the full force and effect of final judgment.
- D. That this Court retain jurisdiction over the matter for the purposes of enforcing the Court's order.
- E. That this Court award Plaintiffs nominal damages and the reasonable costs and expenses of this action, including reasonable attorneys' fees, as required by 745 ILCS 70/12 and Title VII.

F. That this Court grant such other and further relief as the Court deems equitable and just under the circumstances.

Respectfully submitted,

/s/ Sorin A. Leahu

Sorin A. Leahu
Pacific Justice Institute
Ill. Bar No. 6315515
310 Busse Highway, #364
Park Ridge, IL 60068
Phone: (847) 529-7221
Email: sleahu@pji.org