

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. _____

COALITION FOR HEALTHCARE)
WORKERS AGAINST MEDICAL)
MANDATES, et al,)
)
)
Plaintiffs)
v.)
)
JEANNE M. LAMBREW and)
NIRAV D. SHAH,)
)
Defendants)
_____)

**MOTION FOR TEMPORARY
RESTRAINING ORDER
AND/OR INJUNCTIVE RELIEF**

**MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR INJUNCTIVE
RELIEF AND INCORPORATED MEMORANDUM OF LAW**

NOW COME Plaintiffs, by the through the undersigned attorneys, and respectfully move this Court to issue pursuant to M.R. Civ. P. 65 an immediate Temporary Restraining Order and/or Preliminary Injunction in this matter declaring (1) that the new COVID-19 vaccination mandate imposed by 10-144 C.M.R. § 5(A)(7) (2021) shall not take effect pending final resolution of this action, and (2) that the individual Plaintiffs in this matter, and all other similarly-situated healthcare workers in Maine, need not receive a COVID-10 vaccination by September 17, 2021 in order to avoid being fired from their jobs. In support whereof, Plaintiffs state as follows:

II. MEMORANDUM OF LAW

Plaintiffs are entitled to preliminary injunctive relief because: 1) they will suffer irreparable injury if the injunction is not granted; (2) such injury outweighs any harm that

granting the injunctive relief would inflict on Defendants; (3) they have a likelihood of success on the merits (at most, a probability; at least, a substantial possibility); and (4) the public interest will not be adversely affected by granting the injunction. *Bangor Historic Track, Inc. v. Dep't of Agric., Food & Rural Res.*, 2003 ME 140, ¶¶ 8-10, 837 A.2d 129, 132-133 (citing *Dep't of Envtl. Prot. v. Emerson*, 563 A.2d 762, 768 (Me. 1989)).

Plaintiffs meet all four parts of this test, as evidenced in the Complaint and the Exhibits attached thereto.

First, it is clear that if injunctive relief is not granted, the individual Plaintiffs, and likely most or all of the membership of the association Plaintiffs, will be fired from their jobs on or after September 17, and likely no later than October 1, simply because they are unwilling to subject themselves to highly experimental COVID-19 injections which growing evidence suggests are both ineffective and present a heightened risk of injuring the healthcare workers who receive them and at least some patients with whom they come into contact.

Second, the injury to be suffered by the individual Plaintiffs in this case -- the loss of their livelihoods, in circumstances where they will likely not be able to find comparable jobs *without moving outside the State of Maine* -- is onerous. The injury that would be suffered by Plaintiffs in the absence of injunctive relief would far outweigh any harm that granting the injunctive relief would inflict on Defendants. This is especially true here because granting the injunctive relief requested by the Plaintiffs *would simply maintain the status quo*.

Third, given the nature, number, substance, and obvious egregiousness of the allegations set forth in the Complaint, there is a substantial likelihood Plaintiffs will prevail on the merits. The amendments to the Rule were not promulgated in accordance with the Maine Administrative

Procedure Act (“MAPA”), 5 M.R.S. Chapter 375; indeed, as detailed in Counts 1 - 4 of the Complaint, the Department clearly violated the MAPA in several ways, including promulgating the Rule as an emergency “routine technical rule”.

Moreover, the new mandate imposed by the Rule violates the fundamental rights of the individual Plaintiffs protected by the 14th Amendment to the United States Constitution, which guarantees to every individual medical freedom in the form of the right to personal autonomy and bodily integrity, and the associated right to voluntary, informed consent – including the right to reject unwanted medical treatment. *Cruzan v. Director, Missouri Dep’t Health*, 497 U.S. 261 (1990); *Planned Parenthood v. Casey*, 505 U.S. 833, 857 (1992); *Green v. Commissioner of the Dept. of Mental Health, Mental Retardation & Substance Abuse Services*, 2001 ME 86, ¶ 15, 776 A.2d 612.

Finally, the public interest will not be adversely affected by granting injunctive relief. In fact, the new mandate imposed by the Rule completely fails to accomplish its presumed objective. According to the (entirely unsupported) “Findings of Emergency” contained in the Department’s rulemaking “Basis Statement” and “Fact Sheet” (see Complaint, Exh. A), the purpose of the new mandate is, broadly speaking, to protect the public health during the current COVID-19 pandemic. The facts set forth in the Complaint show that this objective, which in general is a valid part of the State’s police power, has clearly not been met in this case.

Indeed, the new mandate may very well be injurious and even life-threatening not only to the Plaintiffs, but to all healthcare workers in the State, to patients at Maine healthcare facilities who come into close contact with vaccinated healthcare workers, and to the public at large. The Complaint presents considerable factual allegations regarding the health risks of the novel, experimental COVID-19 vaccines. Plaintiffs will present expert evidence upon hearing that the

COVID19 “vaccines” are ineffective, actually promote transmission of COVID-19 and shedding of toxic spike proteins, have presented numerous injuries in clinical settings, and provide no evidence of protection against contracting or blocking transmission of COVID-19.

Moreover, the new mandate would almost certainly be extremely damaging to Maine’s healthcare infrastructure, and would therefore have a negative effect on Maine’s economy in general. It is well known that there is a direct correlation between economic health on the one hand, and physical and mental health and well-being on the other. The Complaint also sets forth facts showing that if the new mandate is allowed to take effect, the State’s already serious shortage of healthcare workers will be significantly exacerbated. See the exhibits attached to the Complaint, especially the Exhibit B, Declaration of Emily Nixon, ¶¶ 7 – 10. All of this shows that the public interest will not be adversely affected by granting injunctive relief, but will instead be protected -- together with the fundamental constitutional rights of the individual Plaintiffs. In summary, granting the requested injunctive relief is clearly in the public interest.

WHEREFORE, Plaintiffs respectfully request that this Court grant the motion for preliminary injunction.

Dated this 2nd day of September, 2021.



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Respectfully submitted,



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**MOTION FOR EXEMPTION
FROM ALTERNATIVE
DISPUTE RESOLUTION**

MOTION FOR EXEMPTION FROM ALTERNATIVE DISPUTE RESOLUTION

NOW COME Plaintiffs, by the through the undersigned attorneys, and respectfully move pursuant to M.R. Civ. P. 16B(b)(9) for a "good cause" exemption from the generally applicable Alternative Dispute Resolution requirements of Rule 16B on the grounds that this case presents an emergency requiring immediate judicial review and thus is not an appropriate case for ADR.


WHEREFORE, Plaintiffs respectfully request that this Court issue an appropriate order.

Dated this 2nd day of September, 2021.

Respectfully submitted,



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ORDER

TEMPORARY ORDER

1. On September 2, 2021, Plaintiffs filed a motion for a temporary restraining order and/or injunctive relief pursuant to M.R. Civ. P. 65 and requesting that the new COVID-19 vaccination mandate imposed by 10-144 C.M.R. § 5(A)(7) (2021) shall not take effect as scheduled on September 17, 2021, pending final resolution of this matter. Plaintiffs have also filed a Motion for Exemption from Alternative Dispute Resolution.

2. Having examined the original complaint and the Exhibits thereto, together with the current motion and the Exhibits thereto, it is hereby

ORDERED, that (1) this matter is exempt from ADR, and (2) the Defendants are temporarily restrained from enforcing 10-144 C.M.R. § 5(A)(7) while this action is pending and until a final disposition of the matter is had before this Court or a superseding order is issued.

Judge, Superior Court

Dated this ____ day of September, 2021.