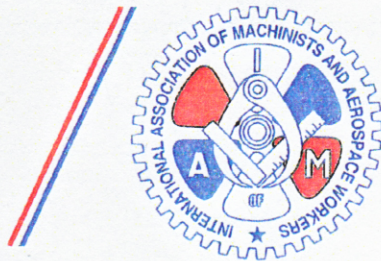


**International
Association of
Machinists and
Aerospace Workers**



1521 N. Cooper St., Suite 250
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Area Code 817
505-0100



October 19, 2021

Re: Addressing COVID-19 Vaccine
Mandate Litigation Prospects

**To all Grand Lodge Representatives, Special Representatives, District and Local Lodge Directing
Business Representatives**

Please see the below communication and information regarding the IAM's assessment of the vaccine mandates.

Dear Sisters and Brothers:

We write to you to respond to a question that has been posed by workers across the country in response to vaccination mandates being issued on the federal level, as well as by private sector employers. We have repeatedly been asked whether the IAM can mount a successful legal challenge to these mandates, and what the likelihood of success for such a challenge would be.

We are carefully monitoring the legal decisions regarding mandates. In short, while the current circumstances are unprecedented, there is a substantial body of case law and precedent to uphold the validity of government-imposed vaccine mandates, and even more support for employer-imposed mandates.

Courts have uniformly upheld mandates, including the mandates for the COVID-19 vaccine. Starting in 1905, the United States Supreme Court upheld the right of the government to impose vaccines in order to protect the safety of its citizens. In that case, the Court held:

“[T]he liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint.

“There are manifold restraints to which every person is necessarily subject for the common good. On any other basis, organized society could not exist with safety to its members. Society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy.

“Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own... regardless of the injury that may be done to others.”

Jacobson v. Mass, 197 U.S. 11, 26 (1905)

This was also their decision in 1932. Officials in San Antonio, Texas prevented a young woman from attending a public school because she also refused a vaccine. Arguing that she was deprived of her 14th Amendment rights, the Supreme Court again sided with the state noting it was within the police power of the state to enforce compulsory immunization in order to ensure widespread public health and safety.

More recently, conservative Supreme Court Justice Amy Coney Barrett refused to block a COVID vaccine requirement on a university campus. A Second Supreme Court justice later refused to block New York City's vaccine mandate. In the lower courts, we are aware of 12 cases that have been brought seeking temporary restraining orders against employer mandates on different causes of action. All have been rejected. Another 7 cases challenging mandates, including in Texas, have been dismissed outright. **Not a single lawsuit challenging mandates has been successful to date.**

Here is a sampling of the cases:

- *State Police Ass'n of Mass. v. Commonwealth* 2184-CV-02117 (Mass. Super. Ct. Sept. 23, 2021)(Rejecting Union's request for preliminary injunction to stop employer's vaccine mandate finding "While the Union has a significant interest in effecting its right to bargain the terms and conditions of its members' employment..., the Court concludes that this interest is outweighed by the Commonwealth's more significant interest in protecting the health and safety of its workforce...")
- *Beckerich v. St. Elizabeth Medical Center*, No. 21-105-DLB-EBA (E.D. Ky. Sept. 24, 2021) (Rejecting Preliminary injunction noting "At its core, this case is about conditions of employment, and whether a private employer can modify its employment conditions to require employees to be vaccinated in response to an unprecedented global pandemic.....the Court recognizes that the COVID-19 pandemic has become unfortunately political and vitriolic, on all sides. But the Court expressly refuses to adjudicate the political assertions in this case. Irrespective of politics...[plaintiffs] have not stated a viable legal theory in support of injunctive relief.")
- *Doe v. Mills*, 1:21-cv-00242-JDL (D.Me. Oct. 13, 2021)(Refusing to issue preliminary injunction against Maine's employment vaccine mandate for healthcare workers even though it does not allow for religious exemption.)
- *In re City of Newark*, 2021 NJ Super. Ct. App. Div. Sept. 27, 2021 ("public interest will be furthered, and will not be harmed, by the city's COVID-19 vaccination mandate.")
- *Maniscalco v. NYC* 2021 Dist. Lexis 184971 (E.D.N.Y. Sept. 23, 2021)(Refusing to issue preliminary injunction to stop the vaccine mandate for teachers finding "Although plaintiffs argue that masks and testing adequately can advance this objective, it is not irrational for defendants to conclude the vaccine mandate better enhances this purpose.")
- *Valdez v. Grisham*, 21-CV-783 MV/JHR (D.N.M. Sept. 13, 2021) (Court rejected employees' request to preliminarily enjoin mandate on either State or federal Constitutional grounds finding "to obtain preliminary injunctive relief, Plaintiffs are required to prove that they are substantially likely to succeed on the merits of their claims, that they will suffer irreparable injury if the Court denies the requested injunction, that the balance of

harms weighs in their favor, and that the injunction would not be adverse to the public interest. ... Plaintiffs fail to satisfy their burden as to any, let alone all of these factors.”)

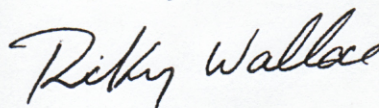
- *Norris v. Stanley*, No. 1:21-cv-756 (W.D. Mich. Aug. 31, 2021) (Rejecting employees’ request to preliminarily enjoin workplace vaccine mandate. The Court noted the employee claimed she has two options “receive the COVID-19 vaccine and give up her constitutional protected rights to bodily autonomy and privacy, or refuse to receive the COVID-19 vaccine and risk termination of her [state] job, a constitutionally protected property interest.” Nonetheless, the Court found she was not likely to win because she cannot show that the mandate is not rationally related to the government’s interest in the health and safety of the public.)
- *Kheriaty v. Regents of the Univ. of Calif.* No. SACV 21-1367 JVS (KESx) (C.D. Ca. Sept. 29, 2021) Rejecting request for preliminary injunction against requirement for vaccine even for those who already had contracted COVID-19.
- *Klaassen v. The Trustees of Indiana University*, 2021 US List Lexis 133300 (N.D. Ind. July 18, 2021)(Refusing to issue a preliminary injunction to stop the mandate, the court held ‘the court must exercise judicial restraint in superimposing any personal view in the guise of constitutional interpretation. Reasonable social policy is for the state legislatures and its authorized arms, and for the People to demand through their representatives.”)

The only cases to receive any level of success were not about the validity of the mandates themselves, but involved challenges to the religious exemption components.

The results of the litigation over mandates to date provide us with added confidence and support for our preliminary assessment that it would be highly unlikely that litigation to challenge employer COVID vaccine mandates would be successful. Accordingly, litigation over this issue would not be a wise use of members' hard earned dues dollars. Employers have a duty to provide a safe workplace for employees, so they generally can require inoculation. Notwithstanding all of this, the Union still has a very important role to play in bargaining over the effects of these mandates.

We will continue to monitor this situation as developments arise, and will keep you apprised as circumstances change.

In Solidarity,



Rickey Wallace
GENERAL VICE PRESIDENT
IAMAW SOUTHERN TERRITORY