

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

**JEANNA NORRIS, on behalf of herself)
and all others similarly situated,)**

Plaintiffs,)

v.)

**PRESIDENT SAMUEL L. STANLEY,)
JR., in his official capacity as President of)
Michigan State University; DIANNE)
BYRUM, in her official capacity as Chair)
of the Board of Trustees, DAN KELLY,)
in his official capacity as Vice Chair)
of the Board of Trustees; and RENEE)
JEFFERSON, PAT O’KEEFE,)
BRIANNA T. SCOTT, KELLY TEBAY,)
and REMA VASSAR in their official)
capacities as Members of the Board of)
Trustees,)**

Defendants.)

CIVIL ACTION NO. _____

**PLAINTIFFS’ MOTION FOR
TEMPORARY RESTRAINING ORDER**

**EXPEDITED CONSIDERATION
REQUESTED
REASON: DEFENDANTS’ POLICY
COULD CAUSE IRREPARABLE
HARM AS SOON AS THE DAY AFTER
THE DEADLINE RUNS ON 8/31/2021**

INTRODUCTION

As an employee of Michigan State University (“MSU”), Plaintiff Jeanna Norris must receive a COVID-19 vaccine by August 31, 2021. The details of MSU’s vaccine requirement were not fully disclosed to Plaintiff and other employees until August 5, 2021. Indeed, it was not until August 17 that the religious and medical exemption forms were released. Thus, although she moved as expeditiously as possible to retain the New Civil Liberties Alliance (“NCLA”) as counsel, and likewise attorneys at NCLA moved as quickly thereafter to file a complaint and preliminary injunction (“PI”), they were only able to do so mere days before the Tuesday, August

31 deadline for receiving the vaccine. Accordingly, Plaintiff requests a temporary restraining order (“TRO”).

I. DISCUSSION

Plaintiff Jeanna Norris is a supervisory Administrative Associate and Fiscal Officer at MSU and contracted COVID-19 in November of 2020.¹ She recovered fully after about a month. Accordingly, she has naturally acquired immunity to SARS-CoV-2, as confirmed both by a PCR test conducted at the time of infection and two very recent antibodies tests. Plaintiff’s doctor (in a declaration attached to the Preliminary Injunction motion and brief in support and to the Complaint—both filed roughly contemporaneously with this TRO Motion) has advised her that receiving the vaccine is medically unnecessary due to her naturally acquired immunity, and it poses a risk of harm for the same reasons.

On July 30, 2021, via email, MSU notified Plaintiff that she, along with all other employees and students, had to receive a COVID-19 vaccine by August 31 (“the Directive”). This email was terse and promised that additional information would be forthcoming. Such information appeared on August 5, 2021 on MSU’s website. That post explained that all employees—even those who work remotely—face disciplinary action unless they are vaccinated by August 31, 2021. Certain medical and religious exemptions would be granted, but MSU specifically excluded naturally acquired immunity as a basis for seeking a medical exemption.

¹ Plaintiff has provided the necessary factual averments in the attached Declaration (“Attachment D”) under penalty of perjury. *See* 28 U.S.C. § 1746. And under the terms of Section 1746, that Declaration serves as the legal equivalent of the affidavit required to support a TRO motion as set forth in Fed. R. Civ. P. 65(b)(1); *see also* 28 U.S.C. § 1746 (“Wherever, under any law of the United States or under any rule ... any matter is required or permitted to be supported, evidenced, established, or proved by the sworn ... affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration”).

Plaintiff argues in her Complaint and preliminary injunction papers that the Directive violates her constitutional rights to bodily autonomy and to decline medical treatment under the Ninth and Fourteenth Amendments to the United States Constitution, and her statutory right not to be coerced into taking a medical product authorized only for emergency use.

Thus, due to the late date upon which the Directive was released, Plaintiff has only a few days (including a weekend) from filing of the Complaint and Preliminary Injunction to receive the COVID-19 vaccine. Accordingly, she and NCLA respectfully urge the Court to grant a TRO to maintain the *status quo* and to prevent Defendants from subjecting her to disciplinary action if she does not receive the vaccine by August 31, 2021. Otherwise, Plaintiff and the public interest will be irreparably harmed. MSU faces no threat of harm, in light of the fact that Plaintiff has naturally acquired immunity *and* works remotely at present, and so the University and the community are not at any risk if the TRO is granted.

Undersigned counsel request the Court to grant TRO relief and thus do the equivalent of “pressing pause” on MSU’s Directive for a short time. Granting this temporary relief will permit the Court to set what it regards as the appropriate briefing schedule on the preliminary injunction.

In the interest of time, and to avoid duplicative filings, Plaintiff hereby incorporates her preliminary injunction briefing into this motion. NCLA remains available for a hearing or any further proceedings at the Court’s convenience.

Dated: August 27, 2021

Respectfully submitted,

/s/ Harriet Hageman

Harriet Hageman,* MSB #87482

Senior Litigation Counsel

Admitted in this Court

Harriet.Hageman@ncla.legal

*Admitted only in Wyoming, Colorado, and Nebraska. Practice limited to matters and proceedings before United States courts and agencies. Practicing under members of the District of Columbia Bar

/s/Jenin Younes

Jenin Younes*

Litigation Counsel

Jenin.Younes@ncla.legal

Admission to this Court forthcoming

* Admitted only in New York. DC practice limited to matters and proceedings before United States courts and agencies. Practicing under members of the District of Columbia Bar.

/s/ John Vecchione

John Vecchione

Senior Litigation Counsel

John.Vecchione@ncla.legal

Admission to this Court forthcoming

NEW CIVIL LIBERTIES ALLIANCE

1225 19th Street NW, Suite 450

Washington, DC 20036

Telephone: (202) 869-5210

Facsimile: (202) 869-5238

Attorneys for Plaintiffs