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Jury fines BlueCross for firing worker over COVID-19 vaccine mandate

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by [Dave Flessner](#)

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Staff Photo by Matt Hamilton / BlueCross BlueShield's headquarters are seen in Chattanooga on Aug. 27, 2021. The building was largely vacant during the pandemic with most employees working at home, but as a federal contractor, BlueCross still required workers get the COVID-19 vaccine unless they had a religious objection or health concern. Last week, a federal jury ordered the insurer to pay one of its former employees \$687,000 in back pay and damages for firing her in 2021 for not getting the vaccine.

A Tennessee jury has awarded a former research scientist at BlueCross BlueShield of Tennessee \$687,000 in back pay and damages after she was fired in 2021 for refusing to take the COVID-19 vaccine.

Following a three-day jury trial in Chattanooga last week, a federal jury decided BlueCross failed to provide reasonable accommodation for Tanja Benton, who did most of her work from home and claimed a religious exemption to the company's vaccine mandate.

Chattanooga Attorney Doug S. Hamill, who represents Benton, said the biostatistical research scientist was fired in November 2021 in violation of her religious beliefs after working for the Chattanooga-based health insurer for nearly

six and a half years. Benton said she believed the COVID-19 vaccines are derived from aborted fetus cell lines.

"Because of her sincerely held religious beliefs concerning abortion, (Benton) cannot in good conscience consume the vaccine, which would not only defile her body but also anger and dishonor God," Hamill said in his lawsuit against BlueCross.

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Do you have religious objections to vaccines?

Yes

No

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According to National Geographic, fetal cells were used in development or testing of COVID-19 vaccines but were not an ingredient. The cells are grown in a laboratory and were derived from abortions more than three decades ago. The cell lines are used in similar ways on drugs including acetaminophen, ibuprofen and aspirin.

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Benton also contended she could continue to do her job from home at all times, which BlueCross did not allow.

Hamill said Benton's job rarely involved direct interaction with clients, with only 1% of her total annual working hours involving client interaction. In the lawsuit,

Hamill said Benton "never performed any work or attended any meetings in medical facilities where patients were being treated" and "physical in-person interaction with co-workers was never a job requirement."

(READ MORE: BlueCross BlueShield of Tennessee to require all workers to get COVID-19 vaccine)

OTHER CLAIMS

Benton is the first BlueCross employee fired over the vaccine mandate to win an award from the company. Others fired from the company are also suing BlueCross, including several who have joined a class action lawsuit against BlueCross after initially filing complaints with the U.S. Equal Employment Opportunity Commission.

But at least one other lawsuit filed by a former BlueCross employee fired for not taking the vaccine was dismissed. Brandi Goodwin filed a similar complaint against BlueCross in 2022, but the case was dismissed the next year when she failed to amend the complaint as the court directed.

Dalya Qualls White, senior vice president and chief communications officer for BlueCross, said Monday that the company was "disappointed by the decision" from the jury last week in favor of Benton, but she declined to immediately say whether it will be appealed.

"We believe the vaccine requirement was the best decision for the health and safety of our employees, members and wider community given the circumstances and federal guidance in effect at the time," White said in an emailed statement Monday. "We appreciate our former employees' service to our members and communities throughout their time with our company."

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In late 2021, BlueCross began mandating its employees be vaccinated for the virus unless they had a religious objection or health reason not to receive the vaccine.

Despite objections by Tennessee Gov. Bill Lee and others, the insurer said as a federal contractor it had to comply with a White House directive to require all of its employees to receive a vaccination by Dec. 8, 2021.

"We believe our accommodation to the vaccine requirement complied with the law," BlueCross spokesperson Alison Sexter said in a statement Monday.

In October 2021, 19 BlueCross employees were terminated over the vaccine mandate, Hamill said, and in November 2021, 22 more BlueCross workers lost their jobs just weeks ahead of a Tennessee law being passed to prevent BlueCross from moving forward with the mandate.

"From the beginning of these forced vaccination campaigns, the position of BlueCross and BlueShield of Tennessee was clear: no jab, no job," Hamill said. "Religious exemptions were ignored, and no attempt was made to retain these employees, some of whom served BCBST for more than two decades."

According to Vanderbilt University, most major religions have no theological objection to vaccination, including Catholics, Orthodox Christians, the Amish, Anglicans, Baptists, Mormons, Methodists and many more.

The university found six denominations have a theological objection. They are Dutch Reformed Congregations, Faith Tabernacle, Church of the First Born, Faith Assembly and End Time Ministries.

Hamill said Benton is a nondenominational Christian.

(READ MORE: Tennessee lawmakers rein in COVID-19 mandates)

EXECUTIVE ORDER

In September 2021, President Joe Biden issued an executive order requiring federal contractors and subcontractors to comply with workplace safety guidelines developed by a federal task force. That task force subsequently issued guidelines that new, renewed or extended contracts include a clause requiring employees to be fully vaccinated by Jan. 18, 2022.

But before the vaccine mandate for most federal contractors became effective, a federal judge struck down the White House directive.

Former Tennessee Attorney General Herbert Slatery III was among a group of state attorneys general who sued to block the vaccine requirement for federal contractors, calling Biden's vaccine mandate "unlawful and unconstitutional."

In October 2021, during a politically charged special session of the Tennessee General Assembly to address the COVID-19 outbreak, state Rep. John Ragan read aloud an email from BlueCross employee Heather Smith opposing her employer's vaccine mandate. Smith claimed her religious objections to the vaccine were being ignored and Smith was seeking "legislative protection for ... individual liberties and rights relating to vaccine mandates."

Smith was fired less than a week after putting her complaints in writing to lawmakers. She sued, but her termination lawsuit was dismissed by a Hamilton County judge. She appealed, and the Tennessee Court of Appeals ruled in Smith's favor, establishing — for the first time — that the right of Tennessee employees to petition lawmakers supersedes Tennessee's at-will employment doctrine, which gives companies the power to fire any employee for nearly any reason.

Contact Dave Flessner at dflessner@timesfreepress.com or [423-757-6340](tel:423-757-6340).



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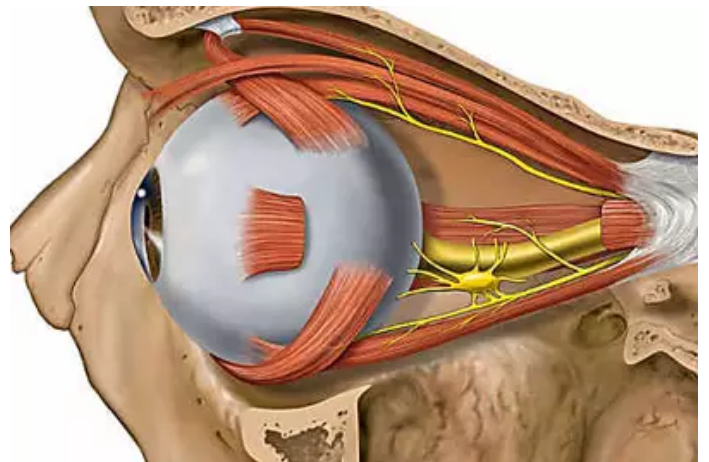
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