

Religious Shield Against COVID Vaccine Mandate Goes to US Federal Appeals Court

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Global Research, August 29, 2022

[Bloomberg Law](#) 26 August 2022

Region: [USA](#)

Theme: [Law and Justice](#)

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A federal appeals court in New Orleans can extend anti-discrimination law’s reach into the workplace in a case involving a religious challenge to a health-care company’s Covid-19 vaccine mandate.

The US Court of Appeals for the Fifth Circuit will hear oral argument Monday in a bid by former workers at Caris Life Sciences Inc. and Caris MPI Inc. to block the company’s vaccination requirement. A district court in Texas [denied](#) the workers’ request for a preliminary injunction in 2021.

The workers rely on the Fifth Circuit’s [February decision](#) that allowed two United Airlines Inc. employees to seek a court order under Title VII of the 1964 Civil Rights Act to halt the airline’s Covid-19 shot policy, which put unvaccinated employees on unpaid leave.

The Fifth Circuit’s consideration of the Caris case gives it the chance to codify its groundbreaking decision in [Sambrano v. United Airlines](#)—which was unpublished, meaning it’s not binding precedent and applies only to the dispute at hand—by adopting its reasoning in a published opinion. The facts of the Caris case also open the door for the court to build on *Sambrano* to broaden when a worker can get a preliminary injunction to halt alleged discrimination.

“This case could show whether *Sambrano* was good for one ticket only or if it opened up a new world of remedies for Title VII,” said [Sean Marotta](#), an appellate attorney at the management-side firm Hogan Lovells.

Sambrano identified an “extraordinary and rare” injury that can’t be fixed by winning money damages, reinstatement, or other remedies that come with prevailing on a Title VII claim. The United workers faced “ongoing coercion” to give up their religious beliefs and comply with company policy, which is an irreparable harm that justifies a preliminary injunction, the decision said.

Sambrano also permitted the United workers to seek immediate court relief even though they failed to exhaust their administrative remedies with the Equal Employment Opportunity Commission or equivalent state agency. That's typically required before workers sue under Title VII and other federal anti-discrimination laws.

The workers suing Caris don't need to win for the Fifth Circuit to endorse *Sambrano*, said [Sachin Pandya](#), a law professor at the University of Connecticut. The court could adopt that unpublished ruling's reasoning in a published opinion, even if it decides the workers didn't show they suffered an irreparable injury, he said.

No Employment Action

Sambrano describes Title VII coercion as a harm distinct from a firing, suspension, or other adverse employment action normally required for a Title VII claim. The court called it "antecedent to, independent from, and exogenous to any adverse employment action."

That notion of coercion is similar to harassment or a hostile work environment for religious beliefs, said [Orly Lobel](#), a law professor and director of the University of San Diego's Center for Employment & Law Policy.

It's also like a "dignitary harm," said [Angela Morrison](#), a law professor at Texas A&M University and former EEOC lawyer. Courts don't recognize damage to a worker's dignity as an actionable injury on its own, although the concept underlies compensatory damages for emotional distress and other non-economic harms, she said.

Yet it's difficult to imagine a *Sambrano*-type coercion claim that centers on gender, race, or other characteristics protected by Title VII, Morrison said, such as a transgender worker who's required to use a bathroom that doesn't fit their gender identity, or a person required to cut their hair in conflict with their racial identity that would be actionable under a [state CROWN Act](#).

"It seems like something that's tailored for religious discrimination and only religious discrimination," Morrison added.

The workers suing Caris appeared to emphasize the religious nature of their claim by making references in their [opening brief](#) to "the devil," "sublime deception by the Prince of Darkness" and "the father of lies," quoting from a 540-year-old book called "On Witchcraft," and citing the Bible. They oppose getting inoculated against Covid-19 because they believe fetal tissue was used to make or test the vaccines.

'Loss of One's Soul'

The workers suing Caris drew a favorable three-judge panel to hear their religious coercion argument: Judges Edith Jones, a Reagan appointee, as well as James Ho and Cory Wilson, both Trump appointees.

Ho has vocally supported blocking United's vaccine policy in *Sambrano*. He dissented from the Fifth Circuit's 2021 [decision](#) denying an injunction pending appeal in the case, saying a person who gets the jab despite religious objections "will have to wrestle with self-doubt—questioning whether he has lived up to the calling of his faith."

Ho doubled-down in an opinion concurring with the full Fifth Circuit's Aug. 19 [decision](#) not to

review *Sambrano*, calling its irreparable injury analysis a “relatively straightforward matter to defend.”

“To millions of people of faith—including the members of the Supreme Court—it’s painfully obvious that there’s no way to calculate damages to compensate for the loss of one’s soul,” he wrote.

Jones sat on the three-judge panel that [temporarily blocked](#) the Biden administration’s Covid-19 shot-or-test mandate in 2021. That panel characterized vaccine mandates as potentially infringing on the liberty of workers forced to choose between their “job(s) and their jab(s)” —a phrase echoed in the former Caris workers’ opening brief.

Leave v. Termination

The workers suing Caris were fired, while the United workers in *Sambrano* were put on unpaid leave.

The former Caris employees argue there’s “no difference” between unpaid leave and termination because the harm alleged is the employer coercing them to “compromise their religious beliefs.”

“Furthermore, once coerced into taking the vaccine, it cannot be undone,” the workers said. “No court order can remove the vaccine from his or her body or undo any spiritual, mental, or physical damages that results.”

But *Sambrano* dealt specifically with ongoing coercion to find irreparable harm, Caris noted in its [brief](#). The decision made clear that alleging a past action likely wouldn’t meet Fifth Circuit standards for irreparable injury, the company said.

Courts regularly sign off on employers threatening termination and firing workers who refuse or can’t tolerate health and safety standards based on religious or health-based objections, Caris said.

Regardless, *Sambrano* is unpublished and has no precedential value, the company said.

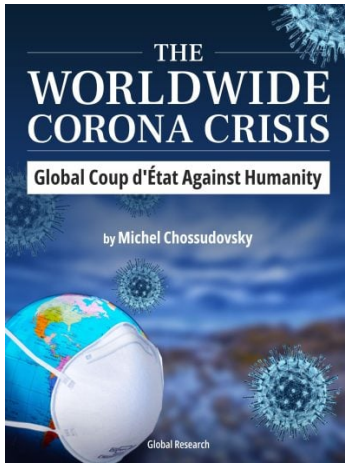
Caris’ lawyer, Sherry Travers of Littler Mendelson PC, and the workers’ attorney, Joseph Lanza of Vethan Law Firm PC, didn’t respond to requests for comment on the case.

The case is [Woodruff v. Caris MPI](#), 5th Cir., No. 21-11249, Oral argument 8/29/22.

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ISBN: 978-0-9879389-3-0

Year: 2022

Product Type: PDF

Pages: 164, 15 Chapters

Price: \$11.50

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