

# Health Freedom Defense Fund Secures Legal Victory Over Vaccine Mandates



Health Freedom Defense Fund ([HFDF](#)), California Educators for Medical Freedom, and individual plaintiffs have won their appeal in the Ninth Circuit on LAUSD's Employee Covid Vaccination Mandate.

Health Freedom Defense Fund et. al, led by the exceptional legal team of John Howard and Scott Street at JW Howard Attorneys, has won a significant victory in the Ninth Circuit, which reversed the dismissal of their lawsuit challenging the Los Angeles Unified School District's ("LAUSD") mandatory vaccination policy for all employees.

Reversing the decision of the Central District of California in Los Angeles, the Ninth Circuit majority held that, first, the case was not mooted by LAUSD's rescission of the mandate after an oral argument last September, 2023. The majority called out LAUSD's gamesmanship for what it was – a bald-faced attempt at avoiding an adverse ruling by trying to create an

issue of mootness.

Unfortunately for LAUSD, they had already done this once in the trial court. Applying the voluntary cessation doctrine, the majority doubted LAUSD's sincerity in rescinding the mandate immediately after an unfavorable oral argument in September of last year.

On the merits, the majority ruled that the district court had misapplied the Supreme Court's 1905 decision in *Jacobson v. Massachusetts* when it dismissed LAUSD's lawsuit on grounds that the mandate was rationally related to a legitimate state interest. In *Jacobson*, the Supreme Court upheld the constitutionality of a smallpox vaccination mandate because it related to "preventing the spread" of smallpox.

The majority, however, noted that HFDF had alleged in the lawsuit that the Covid jabs are not "traditional" vaccines because they do not prevent the spread of Covid-19 but only purport to mitigate Covid symptoms in the recipient. This, HFDF had alleged in its complaint, makes the Covid jab a medical treatment, not a vaccine.

The court recognized that mitigating symptoms rather than preventing the spread of disease "distinguishes *Jacobson*, thus presenting a different government interest." Based on this reasoning, the majority disapproved the trial court's contention that, even if the jabs do not prevent the spread, "*Jacobson* still dictates that the vaccine mandate is subject to, and survives, the rational basis test."

The court held that "[t]his misapplies *Jacobson*," which "did not involve a claim in which the compelled vaccine was 'designed to reduce symptoms in the infected vaccine recipient rather than to prevent transmission and infection.'" *Jacobson* does not, the majority concluded, extend to "forced medical treatment" for the benefit of the recipient.

The court declined to give any deference to pronouncements by

the CDC that the “Covid-19 vaccines are safe and effective.” As the court asked rhetorically, “safe and effective” for what? The majority pointed to HFDF’s allegation that the CDC had changed the definition of “vaccine” in September 2021, striking the word “immunity” from that definition. The court also noted HFDF’s citations to CDC statements that the vaccines do not prevent transmission, and that natural immunity is superior to the vaccines.

In a separate concurrence, Judge Collins wrote that the district court “further erred by failing to realize that [HFDF’s] allegations directly implicate a distinct and more recent line of Supreme Court authority” for the proposition that “a competent person has a constitutionally protected liberty interest in refusing unwanted medical treatment[.]” Citing the Supreme Court’s decision in *Washington v. Glucksberg*, Judge Collins noted that the right to refuse unwanted medical treatment is “entirely consistent with this Nation’s history and constitutional traditions,” and that HFDF’s allegations in [this case](#) “are sufficient to invoke that fundamental right.”

The Ninth Circuit ruling today demonstrates that the court saw through LAUSD’s monkey business, and in so doing, it made clear that American’s cherished rights to self-determination, including the sacred right of bodily autonomy in matters of health, are not negotiable. This is a great triumph for the truth, decency, and what is right.

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