

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

NEELIE PANOZZO, *et al.*,

Plaintiffs,

v.

RIVERSIDE HEALTHCARE, *et al.*,

Defendants.

Case No.: 2:21-cv-02292-CSB-EIL

**Plaintiffs' Motion for a
Temporary Restraining Order
and a Preliminary Injunction**

PROCEDURAL BACKGROUND

Plaintiffs' and Defendants' counsel previously agreed to a briefing schedule for Plaintiffs' motion for a preliminary injunction. ECF 3. This briefing schedule would have had the Plaintiffs move by December 8, Defendants respond by December 15, and Plaintiffs reply by December 17, with a request for a hearing by this Court before December 23. The Court on December 2 declined the agreed briefing schedule to first familiarize itself with the pleadings. ECF Text Order, 12/2.

On December 9, the Court invited the Plaintiffs to "file a motion for preliminary injunction at any time," after which "the court will set appropriate deadlines, as necessary, for Defendants' response, Plaintiffs' reply, and a hearing on the motion." The Court encouraged the parties to agree on a proposed briefing schedule. ECF Text Order, 12/9.

To that end, Plaintiffs' counsel conferred with Defendants' counsel, and filed a motion for a preliminary injunction on Tuesday, December 14, focused on their state-law claims. ECF 6. The motion included a request, made after consultation between counsel, "that the Court order a response by Tuesday, December 21, and any reply by Thursday, December 23. In light of counsel's holiday travel, they ask that any hearing be scheduled for the week of January 10."

The next day, the U.S. Court of Appeals for the Fifth Circuit lifted the nationwide injunction

on the federal Centers for Medicaid & Medicare Services (CMS) vaccination mandate, *Louisiana v. Becerra*, No. 21-30734 (5th Cir. Dec. 15, 2021),¹ thus restoring a federal rule that preempted Plaintiffs' state-law claim. Plaintiffs' and Defendants' counsel conferred on a new briefing schedule for Plaintiffs to file a preliminary injunction based on their federal Title VII claim. That schedule would have had Plaintiffs move by today, Friday, December 17, Defendants respond by December 28, and Plaintiffs reply by December 30, with a request for a hearing the week of January 10, again in consideration of Defendants' counsel's holiday travels.

However, on December 13, Riverside sent a memorandum to Plaintiffs informing them that they would be terminated on Monday, January 3, 2022, “[i]f there is not a subsequent order by the federal court (where the case has been moved) to grant the plaintiffs a preliminary injunction.” (Ex. A) Upon learning of this memorandum from their clients, Plaintiffs' counsel requested that Defendants delay any such action until this Court could hold a hearing and rule on their preliminary injunction motions the week of the 10th, a date suggested in consideration of Defendants' counsel's travel schedule. Moreover, a hearing the week of the 10th would be the same time that the original TRO from the state court was set to expire because Judge Nicholson had set her preliminary injunction hearing for January 11, 2022.

Defendants' counsel has informed Plaintiffs' counsel that after waiting nine weeks to fire Plaintiffs, from October 25 to January 3, it refused to wait any longer, and that Riverside was committed to implementing its policy on January 3 unless a court order explicitly stops it from doing so.

Therefore, Plaintiffs are forced to set aside all of the previous agreed briefing schedules and come to this Court on their own seeking expedited relief to save the jobs of over 50 Riverside

¹ <https://www.ca5.uscourts.gov/opinions/pub/21/21-30734-CV0.pdf>.

employees who will otherwise be fired the moment the holidays have passed.

MOTION

Pursuant to Federal Rule of Procedure 65, Plaintiffs move this Court for a temporary restraining order to maintain the status quo, for the reasons described in the accompanying memorandum. They request that the Court order the Defendants to file any response by Wednesday, December 22, and permit them to reply by Thursday, December 23. They further request that the Court hold a hearing on a date between Monday, December 27, to Thursday, December 30, ideally via an online video platform or telephone conference, *see* Local Rule 7.1(A)(1)(b).

Alternatively, the Court could maintain the agreed briefing schedule for the preliminary injunction (paragraph 4 above), grant a TRO before January 3, 2022, without a hearing, *see* Local Rule 7.1(A)(1)(d), and then set a date sometime on or after January 10 for an in-person hearing of the motion for a preliminary injunction (since the legal issues and standards of review between the TRO and the PI are the same).

Dated: December 17, 2021

Respectfully Submitted,

NEELIE PANOZZO, et al.

By: /s/ Jeffrey M. Schwab
One of their attorneys

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CERTIFICATE OF SERVICE

I, Jeffrey M. Schwab, an attorney, certify that I served the foregoing Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction on all parties on December 17, 2021, via the Court's electronic filing system.

/s/ Jeffrey M. Schwab
Jeffrey M. Schwab