

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE (Jackson)**

SYMANTHA REED, an individual; CHARLES
GOETZ, an individual; JAMES SPAULDING,
an individual; GARY CRAWFORD, an
individual; WENDY WHARTON, an individual;
and MICHELLE WHITEHEAD, an individual;

Plaintiffs,

v.

TYSON FOODS, INC., a corporation,

Defendant.

Civil Action No.: 1:21-cv-01155-STA-jay

AMENDED VERIFIED COMPLAINT

[JURY TRIAL DEMANDED]

INTRODUCTION

1. Article I, Section 2 of the Tennessee Constitution states: “That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.”
2. Plaintiffs Symantha Reed, Charles Goetz, James Spaulding, Gary Crawford, Wendy Wharton, and Michelle Whitehead (collectively, “Plaintiffs”), seek relief from Defendant Tyson Foods, Inc.’s (“Tyson”)’s pattern of discriminatory, unconstitutional, and illegal behavior against employees who request religious or medical exemptions from Tyson’s COVID-19 vaccination mandate policy.
3. On August 3, 2021, Tyson imposed a draconian vaccine mandate for all employees. Tyson’s mandate addresses a very remote risk, asymptomatic deadly spread of COVID-

19 to fellow employees, by a method (vaccination) that poses a higher risk of deadly spread of COVID-19 than asymptomatic spread.

4. Tyson responded to their employees seeking medical or religious exemptions by informing those employees that they would be effectively terminated on November 1, 2021 and placed on unpaid leave of absence with no assurance that they would be allowed to return to the workplace for up to one year. Now that the November 1, 2021 deadline has passed, Tyson employees who are unvaccinated are terminated, either actually or constructively through unpaid leave.
5. Tyson's unlawful actions left Plaintiffs with the impossible choice of suffering a physical assault and uninvited invasion of their body by receiving the experimental COVID-19 vaccine, at the expense of their religious beliefs, bodily autonomy, medical privacy, and their health, or losing their livelihoods and being unable to provide food, housing, and support for themselves and their families.
6. This Faustian bargain is no bargain at all, and is precisely what is forbidden by federal and Tennessee civil rights law.
7. Tyson's actions violated federal and Tennessee law by mandating an experimental medical treatment, retaliating against employees who engaged in protected activity, failing to provide reasonable accommodations for exemptions, and violating the sacred rights of privacy and bodily integrity.
8. The plaintiffs seek this court to order that Tyson comply with the laws protecting the rights of Tennesseans against precisely such catch-22 "choices."

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PARTIES

9. Plaintiff Symantha Reed is a registered nurse at Tyson's plant in Newbern, Tennessee, ("Newbern plant") who requested an exemption from the mandatory vaccination on religious and medical grounds. Her medical exemption was denied. She declined to receive the mandatory vaccination and has been placed on unpaid leave. She is a citizen of Tennessee.
10. Plaintiff Charles Goetz is a maintenance supervisor at Tyson's plant in Union City, Tennessee, ("Union City plant") who worked for 23 years at Tyson. He declined to receive the mandatory vaccination for religious reasons and has been placed on unpaid leave. He is a citizen of Tennessee.
11. Plaintiff James Spaulding was a registered nurse at Tyson's Newbern plant who filed for an exemption for religious reasons. He declined to receive the mandatory vaccination and has been placed on unpaid leave. He is a citizen of Tennessee.
12. Plaintiff Gary Crawford was a supervisor at Tyson's Newbern plant who sought a vaccine exemption on religious grounds. He was forced to leave his position at Tyson and seek alternative employment due to the vaccine mandate. He is a citizen of Tennessee.
13. Plaintiff Wendy Wharton was a quality assurance employee at Tyson's Newbern plant who asked for an exemption on religious grounds. She declined to receive the mandatory vaccination and has been placed on unpaid leave. She is a citizen of Tennessee.
14. Plaintiff Michelle Whitehead, a manager at the Newbern plant, suffers from oxalate kidney syndrome and sought a medical exemption from the COVID-19 vaccine on

medical grounds. She was forced to receive the experimental mRNA vaccine to keep her employment. She is a citizen of Tennessee.

15. Defendant Tyson Foods, Inc. (“Tyson”), together with its subsidiaries, is a corporation that operates as a worldwide food processing and marketing company.
16. Tyson is the world's second largest processor and marketer of chicken, beef, and pork. Tyson employs approximately 139,000 people in the United States and operates five facilities in the state of Tennessee. Tyson’s facilities throughout Tennessee employ thousands of people. A key plant at issue in this case is Tyson’s plant at Newbern, located in Dyer County, Tennessee.
17. Defendant Tyson acted as a federal officer, pursuant to 28 U.S.C. § 1442, and followed the directives of the federal government and its agencies when implementing its vaccine mandate.
18. At all relevant times, Tyson knew or should have known of the laws, policies, practices, and conditions alleged herein.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1442(a)(1). On October 15, 2201, Tyson removed this action from where it was originally filed, in Dyer County Chancery Court for the State of Tennessee, to this federal court [Doc. No.1]. On November 3, 2021, this Court denied Plaintiffs’ Motion To Remand this action to state court, on the grounds that Tyson properly removed the action under 28 U.S.C. § 1442(a)(1) [Doc. No. 20].

20. Pursuant to 28 U.S.C. § 1391(e), venue is proper in the Western District of Tennessee, where Plaintiffs reside, Tyson transacts business, and the wrongful conduct and resulting injuries alleged herein substantially occurred in this state.
21. An actual and justiciable controversy exists between Plaintiffs and Defendant.

FACTS

A. Coronavirus and Tyson's Unlawful Vaccine Mandate

22. The novel coronavirus SARS-CoV-2, which causes the disease COVID-19, is a contagious virus which spreads via person-to-person contact and through the air.
23. In the spring of 2020, Tyson began implementing mitigation procedures for its workforce, including several of the following requirements for its employees: masks, face shields, social distancing, temperature checks, COVID-19 testing,¹ and self-quarantine measures.² Tyson also made several accommodations for hourly employees.³ For example, in March of 2020, the company relaxed attendance policies in its plants by “[e]liminating any punitive effect for missing work due to illness.”⁴

¹ Tyson Foods, *Tyson Foods CEO Provides Update on Efforts to Address COVID-19* (April 6, 2021) available at <https://www.tysonfoods.com/news/news-releases/2020/4/tyson-foods-ceo-provides-update-efforts-address-covid-19> (last visited Sept. 27, 2021); Tyson Foods, *Why Tyson Has Taken a Leading Position on COVID-19 Testing* (July 1, 2021) available at <https://thefeed.blog/2020/07/01/covid-19-testing-at-tyson-foods/> (Last visited Sept. 27, 2021).

² Tyson Foods, *Protecting Team Members and Our Company; Ensuring Business Continuity* (March 17, 2020) available at <https://www.tysonfoods.com/news/news-releases/2020/3/protecting-team-members-and-our-company-ensuring-business-continuity> (last visited Sept. 27, 2021); Chatten Cato, *Tyson Team Innovates to Make Face Shields for Frontline Workers* (July 6, 2021) available at <https://thefeed.blog/2020/07/06/tyson-innovates-to-make-face-shields-for-frontline-workers/> (last visited Sept. 27, 2021).

³ *Ibid.*

⁴ *Ibid.*

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