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Media Inquiries: [Judy Pino](#), 202-869-5218

NCLA Represents COVID-19 Survivors in Class-Action Lawsuit Against Mich. State U. Vaccine Mandate

Norris v. Samuel L. Stanley, Jr., in his official capacity as President of Michigan State University, et al.

Washington, DC (August 27, 2021) – Jeanna Norris is a supervisory Administrative Associate and Fiscal Officer at Michigan State University (MSU). She has naturally-acquired immunity to COVID-19 after recovering from the virus late last year. However, the university has threatened disciplinary action, even termination, if she and other employees do not comply with the school’s [mandatory COVID-19 vaccination policy](#). Ms. Norris is challenging Michigan State’s unconstitutional “COVID Directives” for the Fall 2021 semester. Today, the New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed a [class-action complaint](#) and a [preliminary injunction](#) in the U.S. District Court for the Western District of Michigan on behalf of Ms. Norris and similarly situated individuals at MSU.

MSU first announced its “COVID Directives” for the Fall 2021 semester via email on July 30, and shortly thereafter on its website, alerting faculty, staff, and students that by August 31 they must have completed a full COVID-19 vaccine course or received at least one dose of a two-dose series, unless they obtain a religious or medical exemption. MSU’s policy specifically excludes natural immunity as a basis for a medical exemption.

Ms. Norris has fully recovered from COVID-19, and two recent antibodies tests demonstrate her robust immunity to reinfection. This status also means that Ms. Norris does not pose a threat to anyone else in the Michigan State community. Her immunologist, Dr. Hooman Noorchashm, has advised her that it is medically unnecessary to undergo vaccination at this point. Yet, if Ms. Norris follows her doctor’s advice and elects not to take the vaccine, she faces adverse disciplinary consequences from her employer. This policy cannot reasonably be considered anything other than coercive.

The Supreme Court has recognized that a “forcible injection ... into a nonconsenting person’s body represents a substantial interference with that person’s liberty[.]” Given the antibodies generated by her naturally-acquired immunity, MSU cannot claim a compelling governmental interest in overriding Ms. Norris’s personal autonomy. Thus, forcing her either to be vaccinated or to suffer adverse professional consequences violates her constitutional rights under the Ninth and Fourteenth Amendments. The irrationality of MSU’s policy is further highlighted by its accepting several vaccines that are far inferior to natural immunity, including the Janssen, Sinovac, and Sinopharm vaccines. MSU’s policy also constitutes an unconstitutional condition because it premises Ms. Norris’s enjoyment of some rights upon her surrendering other rights.

Even though Pfizer’s COVID-19 vaccine (now marketed as “Comirnaty”) received full FDA approval on Monday, the three vaccines used widely in the United States—the remaining Pfizer BioNTech doses, and the Moderna and Janssen vaccines—remain under Emergency Use Authorization (EUA). The EUA statute requires informed consent. Therefore, beyond its constitutional defects, MSU’s mandatory vaccination policy is irreconcilable with the objectives of the federal statute governing administration of medical products authorized for emergency use. Pursuant to the Supremacy Clause of the U.S. Constitution, a state or local law is preempted

when it creates “an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.”

NCLA asks the Court to enjoin enforcement of the policy on constitutional and statutory grounds.

NCLA released the following statement:

“Along with all too many Americans, Ms. Norris is facing an impossible dilemma: lose her job or receive a vaccine that is medically unnecessary for her. Michigan State has placed her, and others like her, in this position for no good reason, because she has robust immunity as established by the overwhelming scientific literature. Many public health authorities, the media, and the CDC have resisted the conclusion that natural immunity exists and is as protective or more so than the best available vaccines. Through Ms. Norris’s case, the integrity of the scientific process, which has been severely compromised during the pandemic, can be vindicated through the court system.”

— **Jenin Younes, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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