

# New York Supreme Court Vindicates Workers Fired for Refusing Jab Mandate

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The Supreme Court of the State of New York has ruled that the COVID shot mandate involving former Department of Sanitation employees is “arbitrary and capricious.” In New York, the Supreme Court is the trial court and the Court of Appeals is the state’s highest court.

The court found that the shot mandate was not about safety and public health but “was about compliance,” reinstated the petitioners to full employment and ruled they are entitled to back pay.

George Garvey and 15 other plaintiffs sued the City of New York, New York City Department of Health and Mental Hygiene, New York City Department of Sanitation, the Commissioner of the Department of Health and Mental Hygiene and Mayor Eric Adams regarding the shot mandate that required all city employees to show proof of vaccination against COVID on Oct. 29, 2021. The plaintiffs are former employees of the Department of Sanitation and were terminated in Feb. 2022 for not complying with the mandate.

In his order, Judge Ralph Porzio noted that all but one of the 16 petitioners applied for exemptions and received “generalized and vague denials.” The court wrote, “The Health Commissioner cannot create a new condition of employment for City employees. The Health Commissioner cannot prohibit an employee from reporting to work. The Health Commissioner cannot terminate employees. The Mayor cannot exempt certain employees from these orders.”

Judge Porzio stated, "Being vaccinated does not prevent an individual from contracting or transmitting COVID. As of the day of this Decision, CDC guidelines regarding quarantine and isolation are the same for vaccinated and unvaccinated individuals. The Petitioners should not have been terminated for choosing not to protect themselves. We have learned through the course of the pandemic that the vaccine against COVID is not absolute. Breakthrough cases occur, even for those who have been vaccinated and boosted. President Joe Biden has said that the pandemic is over. The State of New York ended the COVID state of emergency over a month ago."

"The vaccination mandate for City employees was not just about safety and public health; it was about compliance. If it was about safety and public health, unvaccinated workers would have been placed on leave the moment the order was issued. If it was about safety and public health, the Health Commissioner would have issued city-wide mandates for vaccination for all residents. In a City with a nearly 80% vaccination rate, we shouldn't be penalizing the people who showed up to work, at great risk to themselves and their families, while we were locked down. If it was about safety and public health, no one would be exempt. It is time for the City of New York to do what is right and what is just," wrote the court.

Judge Porzio emphasized, "States of emergency are meant to be temporary."

Liberty Counsel Founder and Chairman Mat Staver said, "We commend Judge Porzio for this decision on behalf of these city workers. The court recognizes that the COVID shot does not prevent contracting or transmitting the virus and that the mandates are not about health and safety. This fact has been obvious from nearly the beginning."

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