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WHEN CREDIBILITY MATTERS

Ex-RPI students lose \$27.5M suit over vaccine mandate

By John Cropley | June 1, 2022

TROY — Rensselaer Polytechnic Institute's victory in three students' lawsuit over the COVID vaccine mandate sets a precedent for colleges across the state, lawyers for RPI said Tuesday.

The students had sued in January, seeking exemption from RPI's vaccination requirement and seeking a total of \$27.5 million in damages. The judge hearing the case dismissed the matter in April, and the students' window to appeal closed last week.

Unless a similar case is brought and successfully appealed, this decision is now the standard in New York, said Michael Ginsberg and Rhiannon Spencer, the attorneys representing RPI.

"This decision is a victory for colleges and universities that have enacted policies in an attempt to protect their communities. COVID-19 vaccine exemptions can now be managed as the institutions see fit," they said in a statement.

Ginsberg elaborated that the case came down to motivation: To succeed, the students would have had to show that the vaccine mandate was motivated by RPI's desire to discriminate specifically against them for their religious beliefs.

And that was not RPI's motivation, he said.

An attorney for students Nathaniel Amato, Jeremy Cestero and Sydney Swedick filed the case Jan. 21 in state Supreme Court, Fulton County, where Swedick is a resident.

Each applied for a religious exemption when RPI imposed the mandate, and each was rejected. They still refused the vaccine and were barred from the campus. One took a leave of absence and the other two were disenrolled.

Their complaint stated that:

- RPI's vaccine mandate is in opposition to New York Human Rights Law and RPI's own anti-discrimination policies.
- All three students' religious beliefs compel them to reject the available COVID vaccines because aborted fetal cell lines were used in their development or production.
- RPI's timing of the rejection of religious exemption was purposely delayed until late August to preclude the students from any opportunity to transfer to another school.
- RPI was "so outrageous in character, so extreme in degree, as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized society."

They asked the court to declare RPI had violated their rights and bar RPI from further violations of law and its own policy. They asked for \$2.5 million in damages for intentional infliction of emotional distress and \$25 million in punitive damages.

RPI, through the Troy law firm Pattison, Sampson, Ginsberg & Griffin PLLC, disagreed, not surprisingly.

In a response to the lawsuit, Ginsberg and Spencer said:

- Scientific data don't support the contentions on which the students based their religious objections, and none of the plaintiffs affirmed that they are qualified to offer such a medical and scientific opinion.
- The court doesn't have power to review RPI's decision to disenroll the students unless RPI failed to follow its own policies, or did so arbitrarily or capriciously.
- State Human Rights Law does not impose a duty to accommodate general religious practices.
- RPI's decision to deny all religious exemptions for vaccination was applied uniformly, and the students did not allege discrimination in its application.
- The students themselves caused the harm they claim they face from being disenrolled, as they had time to obtain vaccination after being denied an exemption.
- Legal precedent holds that the right to practice one's religion freely does not include liberty to expose the community to communicable disease.

In his decision dismissing the lawsuit, Judge Martin Auffredou rejected the students' contentions, writing "The Court has found that RPI did not engage in an unlawful discriminatory practice."

He wrote: "RPI's submissions establish conclusively that the policy change was not 'actuated by discrimination,' and plaintiffs' ensuing disenrollment under the revised policy was pursuant to a general rule applicable to all members of the RPI community, regardless of religion, motivated by the need to control the spread of virulent disease among its population."

Auffredou granted RPI summary judgment rejecting the students' first cause of action — that RPI had violated state law — and said other two causes of action depended on the first.