

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
CIVIL DIVISION

**JIOVANNY REYES; KARON BART;
STEPHANIE EVANS; LAURA ELLIOT;
TINA PAUL; and KRIS QUATTLEBAUM**

PLAINTIFFS

VS.

CASE NO. _____

**CONWAY REGIONAL MEDICAL
CENTER, INC.**

DEFENDANT

COMPLAINT

COMES NOW the Plaintiffs, Jiovanny Reyes, Karon Bart, Stephanie Evans, Laura Elliot, Tina Paul, and Kris Quattlebaum (hereinafter “Plaintiffs”), by and through their counsel, Cox, Sterling, McClure & Vandiver, PLLC, and for their Complaint against Defendant, Conway Regional Medical Center, Inc. (“Conway Regional”), hereby state and allege as follows:

INTRODUCTION

This is an action to redress religious discrimination, failure to accommodate a religious belief, and retaliation, in violation of the Arkansas Civil Rights Act of 1993 (the “ACRA”), Ark. Code Ann. §16-123-101, *et seq.*, and other state law claims.

PARTIES, JURISDICTION, AND VENUE

1. Jurisdiction of this Court is invoked under the Arkansas Civil Rights Act of 1993, Ark. Code Ann. §§ 16-123-101 *et seq.*
2. Venue is proper in this Court.
3. Plaintiffs are residents of Arkansas.
4. Plaintiffs work or formerly worked as employees for Conway Regional in Faulkner County, Arkansas.

5. Upon information and belief, and at all times relevant to this complaint, Conway Regional, is an Arkansas corporation that does business in Faulkner County, Arkansas.

6. Exhaustion of administrative remedies is not required under the ACRA and Plaintiffs may seek direct relief in this Court.

GENERAL FACTUAL ALLEGATIONS

7. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

8. Plaintiffs are or were employed as employees by Conway Regional.

9. Conway Regional at all times had control of the terms and conditions of Plaintiffs' employment.

10. Plaintiffs are Christians who have religious objections to the COVID-19 vaccine.

11. Conway Regional is requiring all employees to receive a COVID-19 vaccine.

12. Conway Regional is requiring employees, including these Plaintiffs, who seek a religious exemption to provide information that is unreasonable.

13. Conway Regional is discriminating against certain Christian employees by segregating vaccinated employees and providing them with better terms and conditions of employment and stigmatizing certain Christian employees, including these Plaintiffs, who object to the COVID-19 vaccine and have sought a religious exemption.

14. Conway Regional is coercing employees, including these Plaintiffs, to take the COVID-19 vaccine and retaliating against those employees, including these Plaintiffs, who refuse and seek a religious exemption.

15. Conway Regional is violating other Arkansas laws, as more fully described herein, by imposing its vaccine mandate and terminating employees who object to it because of their religion.

COUNT I – ACRA EMPLOYMENT DISCRIMINATION

16. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

17. Notwithstanding Plaintiffs' past dedication to Conway Regional, Plaintiffs will either be granted a religious exemption or forced to resign due to their religious beliefs.

18. Plaintiffs are being stigmatized and treated differently by Conway Regional because of their Christian faith.

19. Conway Regional's actions are unlawful employment discrimination because of Plaintiffs' religion.

20. Conway Regional's stated reasons for requiring Plaintiffs to take the COVID-19 vaccine were pretextual to its discrimination based on religion.

COUNT II – ACRA FAILURE TO ACCOMMODATE RELIGIOUS BELIEF

21. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

22. ACRA requires employers to accommodate an employee's religious belief.

23. Conway Regional has failed to accommodate Plaintiffs by not granting them a religious exemption from the requirement to take the COVID-19 vaccine and/or failing to accommodate them by making unreasonable requests to provide information relating to the Plaintiffs' religious beliefs.

24. Conway Regional has failed to engage in a good faith interactive process to accommodate the religious beliefs of these Plaintiffs.

25. Accommodating the religious beliefs of these Plaintiffs would not be an undue burden on Conway Regional.

26. Conway Regional is allowing certain other employees to have exemptions from the vaccine mandate, none of which are of the same religion as Plaintiffs.

COUNT III – ACRA RETALIATION

27. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

28. Conway Regional has made negative remarks about Plaintiffs and otherwise treated Plaintiffs negatively because they requested religious exemptions from the COVID-19 vaccine mandate.

29. Conway Regional's actions are in retaliation for Plaintiffs' religious beliefs, their requests for a religious accommodation, their objections to the vaccine mandate, and are an attempt to unlawfully coerce Plaintiffs.

COUNT IV - OUTRAGE

30. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

31. Conway Regional has willfully and wantonly engaged in extreme and outrageous conduct, including but not limited to requiring employees to obtain the COVID-19 vaccine as a condition of continued employment, unreasonably denying employees religious accommodations, and retaliating against employees for their religious beliefs, objecting to the vaccine mandate, and requesting accommodations.

32. Conway Regional's actions caused damage to Plaintiffs in the nature of emotional distress.

COUNT V – ASSAULT AND BATTERY

33. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

34. Conway Regional's actions constituted unlawful assault and/or battery because its actions created reasonable apprehension of immediate harmful or offensive conduct upon Plaintiffs or caused harmful or offensive contact with Plaintiffs.

35. Conway Regional intended to cause that apprehension or contact.

36. Plaintiffs were put in that apprehension, or harmful or offensive contact resulted.

37. Plaintiffs sustained damages.

COUNT VI – WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY

38. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

39. Conway Regional terminated or threatened to terminate Plaintiffs who did not receive the COVID-19 vaccine.

40. Conway Regional terminated some Plaintiffs in anticipation of the Arkansas General Assembly passing legislation, which it did (SB 739 and HB 1977 of 2021).

41. Even before the action of the Arkansas General Assembly, Arkansas public policy supported exemptions for other vaccines for religious, medical, or philosophical objections.

42. Arkansas public policy, under the Arkansas Civil Rights Act, requires employers to provide reasonable accommodations for religious beliefs.

COUNT VII – WRONGFUL DISCHARGE WAS UNCONSCIONABLE

43. Plaintiffs restate and incorporate herein by reference the preceding paragraphs of their Complaint as if fully set forth herein word for word.

44. Conway Regional's actions, including unilaterally changing the terms and conditions of at-will employment for Plaintiffs by imposing a vaccine mandate, were an unconscionable change in the terms and conditions of at-will employment.

45. Under Arkansas law, employers cannot unilaterally change the terms and conditions of at-will employment to include terms and conditions that are unconscionable.

46. Conway Regional's actions were unconscionable because, among other reasons, they forced Plaintiffs to choose between their religious beliefs or providing for their families.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seeks judgment against the Defendant for all just and proper relief including:

(A) Plaintiffs seek a jury trial on all issues so triable;

(B) Plaintiffs seek compensatory damages including lost wages, past and future lost income, physical pain, emotional distress, humiliation, and past and future medical expenses. As to lost wages, Plaintiffs seek an order awarding Plaintiffs back pay, pre-judgment interest, fringe benefits, and any other appropriate relief necessary to make Plaintiffs whole and compensate them for the civil rights violations described above;

(C) Plaintiffs seek, if applicable, reinstatement or alternatively front pay, fringe benefits, and other compensation; and

(D) Plaintiffs seek the costs of this action, including reasonable attorney's fees, and such other legal and equitable relief as this Court deems just and proper; and

(E) Plaintiffs seek preliminary and permanent injunctive relief and declaratory relief.

Respectfully Submitted,

By: /s/ Brian A. Vandiver
Brian A. Vandiver (ABN 2001078)
COX, STERLING, McCLURE &
VANDIVER, PLLC
8712 Counts Massie Rd.
North Little Rock, AR 72113
T: (501) 954-8073
F: (501) 954-7856
E: bavandiver@csmfirm.com

ATTORNEY FOR THE PLAINTIFFS