

SYNOPSIS OF THE CASE¹

2022 MT 234, DA 22-0109: NETZER LAW OFFICE, P.C. AND DONALD L. NETZER, Plaintiffs and Appellants, v. STATE OF MONTANA, by and through AUSTIN KNUDSEN in his official capacity as Attorney General and LAURIE ESAU, Montana Commissioner of labor and industries, Defendants and Appellees.

The Montana Supreme Court has upheld a district court ruling in which the court declined to issue a preliminary injunction that would have temporarily barred implementation of the vaccination discrimination law.

In 2021, the Legislature passed HB 702, a bill that prohibits discrimination based on a person's vaccination status. It applies to all vaccines, not just COVID-19 vaccines. The law prohibits government entities as well as individuals, including businesses, from denying services or employment to any person based on that person's vaccination status. That prohibition does not apply to schools or day-care facilities.

Netzer, an attorney in a small law firm in Montana, alleged that the law violated several of his constitutional rights, including the right to a clean and healthful environment, the right to possess and protect property, and the right to seek health and safety. He also alleged that the law contained more than one subject not contained in the title.

In February 2022, a district court declined to issue a preliminary injunction that would have barred implementation of the law. The district court allowed the law to remain in effect while the legal challenge was pending. The Supreme Court upheld that decision based on its determination that the district court did not abuse its discretion. The Court also concluded that the district court should have considered whether HB 702 violated the single-subject rule and remanded the issue to the court.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.