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February 2021

TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

As we know, the United States Supreme Court recently voided New York's Covid density restrictions at places of religious worship. With this backdrop a review of a case brought in our state court is worthy of discussion.

New York's Public Health Law had provided for religious exemptions from mandatory vaccines until the Legislature had voided this type of exemption in response to the measles outbreak across the country. The law further provided that children could not be admitted or attend a school without proof of mandated vaccines.

Plaintiff parents attempted to obtain a temporary restraining order but was denied by the court on the grounds that the parents could not establish a likelihood of winning after a full hearing. This did not for a rejection of the overall claim but was more procedural in nature. They had shown they could be irreparably damaged – a basis for a temporary injunction – but failed on the question or likelihood of success.

The court then discussed the various equities at stake in the matter. Were the repeal to be halted children would be exposed to greater risk of exposure to disease with life-long effects. The children would be more freely able to attend school and participate in activities were they vaccinated.

The issue of probability of success on the merits of the case was analyzed and the court referred to a 1944 US Supreme Court decision which discussed religious freedom and contained the findings that “the right to practice religion does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”

Other arguments advanced by the parents were discussed and dismissed. The court further noted that the Federal Appeals Court encompassing New York had held that mandatory vaccination as a condition for school did not constitute a violation of the Free Exercise of Religion Clause.

One must wonder whether we will hear further on this subject from the newly shaped US Supreme Court – and – if so – in what direction are we headed? Vaccines are the hot button topic and it is a safe guess that someone-somewhere- will be heading towards a courtroom and the last story has not yet been written.

Respectfully submitted,

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