

# WA faces spate of lawsuits from workers fired for refusing COVID vaccines

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**1 of 4** | Doug Clevenger is a former Washington State Patrol trooper who filed a tort claim, a required precursor to a lawsuit, against the state over vaccine requirements. (Kevin Clark / The Seattle Times)



By [Jim Brunner](#)

*Seattle Times political reporter*

Gov. Jay Inslee recently ended the COVID-19 vaccination mandate, but for some of the public workers fired for refusing to comply, the legal battle goes on.

The state is facing more than a dozen lawsuits involving at least 180 ex-employees who allege they were unjustly forced from their jobs after asserting religious or other objections to receiving the vaccines.

The plaintiffs include state troopers, nurses, psychiatrists, mental health counselors, fish biologists and bank regulators, among others. Some had decades of state service. But their careers were cut short after they declined to meet Inslee's October 2021 deadline to get vaccinated.

In the highest-profile case, former Washington State football coach [Nick Rolovich](#) has sued the state and WSU, seeking \$25 million in compensation after being fired for refusing to get a COVID vaccine. A federal judge this week dismissed Inslee and WSU athletic director Patrick Chun as defendants in the lawsuit, but left open [three claims against WSU](#).

In one of the latest cases, 60 former employees of the Washington State Department of Transportation, including ferry workers, engineers and snowplow drivers, [sued the state on May 9](#) in federal court, contending they'd been illegally terminated even though they could have continued their work safely.

Judges have repeatedly upheld Inslee's authority to enforce the vaccine mandate, swatting down lawsuits, including some filed on behalf of workers now contesting their dismissals.

The new lawsuits represent a second phase of the legal fight, said Nathan Arnold, a Redmond attorney representing the ex-workers in several of the biggest lawsuits.

"Our focus now is how the governor's proclamation was applied by different agencies to specific individuals," Arnold said.

Most of the lawsuits center on workers who asked for and received religious exemptions from the vaccine mandate, but who were nevertheless fired or forced to quit because agencies said they could not be safely accommodated.

“The piece that is universally missing is an honest attempt to accommodate,” said Arnold. “His [Inslee’s] order explicitly required the agencies to follow the law in the way they implemented it, and they just didn’t do it.”

The state has denied such claims, saying in court filings the firings were handled appropriately. None of the cases against the state has resulted in settlements or payouts so far, said Brionna Aho, a spokesperson for the state Attorney General’s Office.

In one unusual instance, the state Department of Fish and Wildlife was forced to reinstate some employees it had fired for refusing vaccines, after arbitrators sided with a union grievance and ruled the agency had failed to seriously consider accommodations such as remote work.

Inslee’s vaccine mandate order, issued in August 2021 as increasingly infectious coronavirus variants ripped through the country, was among the nation’s strictest. Unlike many other states, for example, it did not allow for regular coronavirus testing in lieu of vaccination.

Ultimately, the vast majority of state employees complied with the order. But more than 2,100 refused and were fired, resigned or retired rather than receive the shots.

One of them was Doug Clevenger, a 25-year veteran of the State Patrol, who opposed getting vaccinated and objected in principle to the governor’s mandate.

“I was young, healthy and willing to fight for anything. There wasn’t a chance that I was going to take a risk that I didn’t feel was necessary for my health,” Clevenger said, adding: “I took an oath a long time ago to defend freedoms and liberties.”

Clevenger, now 50, faxed in his retirement papers on Oct. 18, 2021, along with a note stating “I retire under duress of the Governors mandate.” Represented by Arnold, he has filed a tort claim against the state — a required precursor to a lawsuit.

Another 67 State Patrol troopers, also represented by Arnold, sued the state last August in Thurston County Superior Court, arguing they were improperly fired for refusing to take the vaccine.

[The lawsuit](#) alleges the state violated a law that entitles troopers facing demotion or firing to a hearing before a three-member trial board. It also accuses the state of wage theft, breach of contract and religious discrimination.

Emails cited in the lawsuit show some patrol supervisors expressing dismay at the rigid stance of the Inslee administration.

“I want to emphasize that this is a decision by the Governor. This is not being made by the Chief [John Baptiste] ... so please don’t blame the messenger,” wrote Capt. Jason

Knott, a patrol commander in Snohomish County, in a Sept. 3, 2021, email to the affected troopers.

Knott noted that troopers had worked during the pandemic for more than a year using only personal protective equipment and social distancing, with very few becoming ill. “I do not know why that is not convincing enough to the Governor for the people to keep a medical choice personal versus mandating vaccinations,” he wrote.

The patrol is now facing a trooper shortage in part due to the 163 troopers and other agency employees who were fired or quit because of the mandate.

The agency remains short 139 troopers and also faces shortages in other commissioned officer ranks — for a total of about 200 vacant positions, WSP spokesperson Chris Loftis said in an email.

In an effort to remedy that, the patrol is offering bonuses totaling \$10,000 for new cadets who complete the training academy and a yearlong probationary period. The agency is also trying to lure “lateral hires” from other police departments, offering hiring incentives of \$8,000, with additional bonuses totaling \$12,000 if they last two years.

Inslee has made no apologies for his vaccination policy, crediting the mandate and other public-health measures for leaving Washington with one of the lowest death rates from COVID among all U.S. states.

The COVID vaccines prevented more than 18.5 million additional hospitalizations and 3.2 million additional deaths in the U.S. between December 2020 and November 2022, according to [a study by The Commonwealth Fund](#).

In an email, Inslee spokesperson Mike Faulk said the state’s human resources department “provided general guidance” to agencies “consistent with state and federal law” in carrying out the mandate and accommodation decisions.

The state did grant nearly 1,500 employees accommodations based on religious objections, allowing them to stay in their jobs, according to the state [Office of Financial Management](#).

More than 8,300 lawsuits have been filed across the country against public and private employers as a result of the pandemic, according to a litigation tracker maintained by the national employment law firm [Fisher Phillips](#). That includes disputes over mandates and firings, as well as claims of unsafe workplaces due to inadequate COVID precautions.

Lawsuits alleging wrongful firing have so far not resulted in many large payouts, though an Illinois hospital system owner agreed to [a \\$10.3 million settlement](#) last year in a case brought by workers fired after being denied religious exemptions.

“It still seems that the vast majority of these cases are getting tossed out,” said Alex Wheatley, an attorney in the Portland office of Fisher Phillips, though he cautioned that some cases are still in “very early stages.”

While employers by law must consider religious objections to vaccinations, past court rulings have shown they can usually prevail in lawsuits by proving even a small hardship in accommodating such objectors in the workplace, Wheatley said.

Harold Franklin Jr., a Renton attorney who has filed several lawsuits over the firings of state and local government employees, said the cases are plowing new ground.

“The reality is that these are novel cases in this state,” said Franklin, an attorney with the Pacific Justice Institute, a conservative legal nonprofit specializing in religious freedom cases.

One case brought by Franklin, on behalf of a fired medical resident employed by Washington State University, was dismissed last month by a federal judge, who ruled “no accommodation was possible” for him working unvaccinated at a hospital.

Inslee rescinded the employee vaccination mandate on May 11, a couple of months after the city of Seattle and King County dropped their requirements. In its place the state is offering bonuses of \$1,000 for many state employees to receive booster shots.

Employees who were fired or quit are allowed to apply for jobs again but have not been granted any special priority for getting rehired.

At the state Department of Fish and Wildlife, though, three employees fired after asserting religious objections to vaccination have been reinstated — with back pay — after arbitrators ruled the department failed to make a good-faith effort to accommodate them.

Ruthanna Shirley, a fisheries biologist and supervisor who works in Ridgefield, Clark County, was one of them. She helps run a bounty program encouraging people to catch the [Northern Pikeminnow](#), a native fish that eats millions of juvenile salmon and steelhead.

At the start of the pandemic in 2020, Shirley won a leadership award issued by the state for leading her team through a period of teleworking. But she was fired a year later and denied the ability to telework after declining to get vaccinated, according to a lawsuit.

Shirley said she has never taken a vaccine as an adult due to her Christian faith. She wrote on an exemption application that she believes the body is a “holy temple.”

She said she’d prayed about whether to receive the vaccine.

“It was an extremely difficult decision because I went to school to do what I am doing. I was going to be walking away from a career that I was expecting to be retiring in,” she said.

Shirley is among 13 current and former Fish and Wildlife employees [suing in federal court](#) over the firings, asking for damages for violations of their constitutional rights.

On the first day Shirley returned to work, she was ordered by a manager to immediately remove two balloons and a flower that had been placed on her desk by co-workers, according to the lawsuit.

“Defendants have continued to discriminate against Ms. Shirley with no compelling reason by mandating that she wear a mask and social distance, despite no other individuals having to wear a mask or social distance, in contradiction to CDC policy to treat the vaccinated and unvaccinated alike,” the lawsuit alleges.

In a statement, Amy Windrope, deputy director of Fish and Wildlife and a named defendant in the case, said the department’s priority is staff and public safety.

“This was especially true during the public health emergency caused by COVID-19, and the steps WDFW took to respond to that emergency were carefully considered, and consistent with state and federal law,” Windrope said.

She said the department could not discuss other details involving the ongoing litigation.

For most who left state jobs due to the mandate, there is no certain path to getting rehired — even if they want to.

Clevenger said he’d like to have that option, hoping legal action against the state will change its stance. Since leaving the patrol with a pension, he’s been working for a private youth soccer club.

He said it’s a shame “that 25 years of service to the state that I continue to live in was punctuated by something so negative” and abrupt.

“I would have wanted to have left on my own terms, with my pride, not scrambling to put all my equipment in a box to hand to my lieutenant at my front door,” he said.

**Jim Brunner:** 206-515-5628 or [jbrunner@seattletimes.com](mailto:jbrunner@seattletimes.com); on

Twitter: [@Jim\\_Brunner](https://twitter.com/Jim_Brunner). Seattle Times political reporter Jim Brunner covers state, local and regional politics.