

CAUSE NO. _____

HASAN GOKAL
Plaintiff,

v.

HARRIS COUNTY, TEXAS d/b/a
HARRIS COUNTY PUBLIC HEALTH,
Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

__JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Hasan Gokal, M.D. ("Dr. Gokal") files this Original Petition against Defendant Harris County, Texas d/b/a Harris County Public Health ("HCPH") and in support of his petition respectfully states:

I. INTRODUCTION

A. Dr. Gokal tried to save lives without regard to race, HCPH terminates him for giving the vaccine to too many "Indian" sounding at-risk patients

Right after the first vaccine had been approved to fight the global Covid-19 pandemic, doctors nationwide furiously tried to get the vaccine to as many at-risk people as possible. Dr. Gokal was one of those doctors heading up HCPH's efforts. Yet, in January 2021, HCPH terminated Dr. Gokal, accusing him of stealing an already opened vial of the Moderna vaccine. HCPH's position: Dr. Gokal should have thrown the 10 leftover doses in the trash rather than, as HCPH says, giving it to people of Asian (specifically South Asian or Indian) descent. Living by the Hippocratic Oath and his own morals to err on the side of saving a life, Dr. Gokal, after approval from a superior, used the 10 doses to immunize 10 individuals. Dr. Gokal gave the vaccine to those who were considered "at-risk" and who he could immediately give it to before its expiration, which would have rendered the vaccine unusable. And he did so without race in mind, but solely in terms of at-risk individuals he could give the vaccine to as quickly as possible. Dr.

Gokal's actions were heroic and directly in line with the orders from the Texas Department of State Health Services and the Centers for Disease Control. But HCPH proceeded to fire Dr. Gokal anyways, articulating that Dr. Gokal did not "equitably" distribute the vaccine and gave the vaccine to too many individuals with "Indian" sounding names. At every turn, even prior to the vaccine roll-out, HCPH discriminated against Dr. Gokal for his South Asian race and Pakistani national origin which motivated HCPH's decision to take adverse employment actions.

II. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 as described in Texas Rule of Civil Procedure 190.4. Plaintiff seeks monetary relief in excess of \$1,000,000.00.

III. PARTIES

2. Plaintiff Hasan Gokal, M.D. is an individual and resident of the State of Texas.

3. Defendant Harris County is a public entity which delegates its public health functions to HCPH, a department of Harris County, Texas. HCPH is located at 2223 W Loop S. Houston, TX 77027. Defendant's registered agent Ann Harris Bennett may be served at 1001 Preston St. STE 355, Houston, TX 77002 (mailing address: P.O. Box 3746 Houston, TX 77253-3746), or wherever she may be found.

IV. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the lawsuit under Texas Government Code §§ 24.007, 24.008.

5. This Court has personal jurisdiction over the parties because both are Texas residents.

6. Venue is proper and maintainable in Harris County, Texas pursuant to Texas Civil Practice and Remedies Code section 15.002(a) because all or a part of the transaction or events

giving rise to this lawsuit occurred in Harris County, Texas, and Harris County is where HCPH resides and has its principal office in Texas.

V. FACTS

7. Dr. Gokal is a licensed, highly-skilled physician that is board certified in emergency medicine. Dr. Gokal has over 20 years' experience in the medical field.

8. HCPH is the designated health department of Harris County, the most populous county in the state of Texas and the third most populous county in the United States. HCPH employs well over 1,000 employees and Harris County as a whole employs over 16,000 people. The company that employed Dr. Gokal, HCPH, is headquartered in Houston, Texas.

A. Dr. Gokal's Employment at Harris County Public Health

9. In April 2020, Dr. Gokal joined HCPH and served as a medical advisor. Specifically, Dr. Gokal was involved in coordinating the provision of emergency services during the COVID-19 pandemic, including testing, contact tracing and transmission surveillance, vaccinations, and epidemiology. Dr. Gokal also advised various government and non-governmental agencies who sought assistance from HCPH with COVID-19 response and mitigation. Dr. Gokal reported directly to Michael ("Mac") W. McClendon, Director of the Office of Public Health Preparedness and Response.

10. At the beginning of his tenure at HCPH, Dr. Gokal worked primarily from a field hospital built by HCPH for hospital overflow at NRG Stadium. In May 2020, HCPH ascertained that the overflow capacity was not needed, and the facility was downscaled and partially dismantled. Thereafter, Dr. Gokal worked mostly from the HCPH offices.

11. Throughout the rest of 2020, Dr. Gokal was involved in helping manage the COVID-19 response. Dr. Gokal served as a clinical consultant for the various group within

HCPH, providing assistance to the various groups as issues arose. A significant part of this role was to interpret COVID-19 data as it came in and advise officials such as the County Judge Lina Hidalgo. Dr. Gokal also was involved in getting research grants in conjunction with the University of Texas School of Public Health regarding COVID-19. In doing this, Dr. Gokal developed research protocols, worked with epidemiologists, and did community outreach in an effort to mitigate COVID transmissions in the community.

12. During his tenure at HCPH, Dr. Gokal spearheaded the creation of the protocols to safely have employees return to work within Harris County.

13. Once the vaccine was approved, Dr. Gokal served as the medical advisor for the COVID-19 vaccine roll-out and was involved with the very first distribution of the COVID-19 vaccine in Harris County on December 29, 2020, discussed in detail in Section B below.

14. During his employment at HCPH, Dr. Gokal was a high-performer and never received a written reprimand or complaint.

15. On January 7, 2021, Dr. Gokal was terminated by HCPH during a meeting with Ed Anderson, Director of Human Resources at HCPH, and Mac McClendon, discussed in detail in Section B below.

B. The Events of December 29, 2020 and Harris County Public Health's Termination of Dr. Gokal

16. On December 18, 2020, the Moderna COVID-19 vaccine was approved for emergency use in the United States, making it easier to distribute the vaccine due to its less extensive storage requirements.

17. As a result, the Texas Department of State Health Services ("DSHS") and HCPH immediately began to set up a campaign to distribute the vaccine. On December 22, 2020, DSHS held a conference call for all public health departments state-wide to advise on the vaccine and

the public roll-out. Dr. Gokal was the only appointed representative from HCPH to attend the conference call. During the call, Dr. Jennifer Shuford directed all health departments in Texas to not waste any vaccine and explained that if there are not people who qualify and a vial is punctured, to make sure the vaccine is still used, no matter what. On December 29, 2020, HCPH held its first Harris County vaccine distribution site at Lyndsay Lyons Park in Humble, Texas. Dr. Gokal served as the onsite manager.

18. The events of December 29th are as follows:

- **5 A.M.**: Dr. Gokal left his house and headed to Lyndsay Lyons Park.
- **7 A.M.**: Site opened up and immunizations began.
- **12 P.M.**: Dr. Gokal bought lunch for all onsite staff. The onsite staff took a lunch break and Dr. Gokal stepped in to give any immunizations while staff were on break.
- **6:30 P.M.**: The last dose from a Moderna vial used to immunize an individual.
- **6:45 P.M.**: Another individual came to be immunized; another Moderna vial punctured.
- **7 P.M.**: Site shut down with 10 doses left in the Moderna vial punctured at 6:45.
- **7-7:30 P.M.**: Dr. Gokal asked onsite staff of various races and ethnicity, including the two police officers onsite, if anyone wanted to be immunized with the remaining 10 doses in the vial. All onsite staff had either been vaccinated or declined to receive the vaccine. Dr. Gokal then called Trey Frankovich, Senior Analyst at HCPH and Dr. Gokal's superior in command, and told him that he was going to find individuals to give the vaccine to and Mr. Frankovich replied, "Ok, good."
- **7:30 P.M. to 12:10 A.M.**: On his way home, Dr. Gokal called around to find individuals to give the vaccine to who fell in either the 1(a) or 1(b) "at-risk" categories. Dr. Gokal lined up 10 individuals to vaccinate who are at-risk due to underlying health conditions. Dr. Gokal initially inoculated two individuals at his home. He then traveled to the homes of 5 other individuals to give them the vaccine. After returning home, he immunized 2 additional people. The last individual Dr. Gokal had lined up couldn't make it prior to the vaccine spoiling.
- **12:30 A.M.**: With no one else to give the last dose of the vaccine to, and instead of throwing away the last dose that was about to expire, Dr. Gokal gave the last dose of the Moderna vaccine to his wife, who has a significant underlying health condition.

19. The next day, on December 30, 2020, Dr. Gokal completed all the necessary paperwork to document the individuals who he immunized with the ten leftover doses. Dr. Gokal then walked into a meeting with the COVID-19 immunization team and handed them the paperwork to be entered into the HCPH and DSHS tracking systems.

20. From December 30, 2020 to January 7, 2021, no one from HCPH mentioned the December 29th roll-out or Dr. Gokal's use of the left-over doses.

21. On January 7, 2021, Dr. Gokal received an email from Ed Anderson and Mac McClendon asking for him to meet with them to discuss recruitment. Dr. Gokal, Mr. Anderson, and Mr. McClendon held that meeting later that day. Instead of discussing "recruitment," Mr. Anderson and Mr. McClendon fired Dr. Gokal. The "recruitment" tag-line was a deception.

22. During the January 7, 2021 meeting, Mr. Anderson and Mr. McClendon did not ask about the events of December 29th, nor did they try to further understand what occurred. They did not care about Dr. Gokal's side of the story. They did not care about his efforts to find people for the vaccine regardless of race or national origin. Instead, Mr. Anderson declared that Dr. Gokal did not "equitably" distribute the vaccine and that Dr. Gokal gave the vaccine to too many individuals with "Indian" sounding names. Mr. Anderson and Mr. McClendon further claimed that Dr. Gokal stole the vial of the Moderna vaccine. Because the approval of the vaccine for emergency use came faster than expected, HCPH had not set up its protocols or a waiting list for the vaccine. According to Mr. Anderson and Mr. McClendon, Dr. Gokal should have instead thrown the vaccines away. Mr. Anderson promptly handed Dr. Gokal a termination letter and had him escorted out of the building. Had Dr. Gokal or the people who he gave the vaccine to been white, there would have been no complaint about "equitably" distributing to people with white sounding names. He would not have been terminated and HCPH would not have engaged in a

misinformation campaign about him.

C. HCPH Targets Dr. Gokal and Engineers a Misinformation Campaign

a. The Medical Board Complaint

23. After HCPH fired Dr. Gokal, HCPH filed a complaint with the Texas Medical Board in an effort to get Dr. Gokal stripped of his medical license.

24. The complaint to the Medical Board falsely alleged that Dr. Gokal stole a vial of the COVID-19 vaccine on December 29, 2020, that Dr. Gokal did not follow proper protocol, and that Dr. Gokal did not contact his next in command to inquire how to use the remaining 10 doses. The Medical Board complaint further alleged violations of laws connected with practice, disciplinary action by peers, and unprofessional conduct.

25. Upon receiving Dr. Gokal's side of the story and the evidence he submitted, the Texas Medical Board immediately dismissed the complaint on March 9, 2021. The Texas Medical Board stated that Dr. Gokal "administered doses of the COVID-19 vaccine to patients that were properly consented, in the eligible patient category, and they were given doses that would have otherwise been wasted." The Texas Medical Board went on to state that "there were no established/written waste protocols or waiting list on December 29, 2020" for Dr. Gokal to follow.

26. Despite the Texas Medical Board's prompt dismissal, the entire process took several months, during which time, Dr. Gokal could not work because employers were reluctant to hire him given the publicity of the allegations made against him and the pending Texas Medical Board complaint.

b. The Criminal Action

27. During the January 7, 2021, meeting, Mr. Anderson and Mr. McClendon stated they were in contact with the County Attorney's office regarding Dr. Gokal's actions and that an action

for theft by a public servant was likely to come. HCPH caused the criminal action to be brought against Dr. Gokal.

28. The information HCPH fed the County Attorney's office and eventually the District Attorney's office is riddled with misinformation. Here are some examples:

- Dr. Gokal administered the vaccine to friends and family;
- Dr. Gokal stole multiple vials of the vaccine;
- The protocol in place was to bring leftover doses back to HCPH offices;
- Dr. Gokal gave out 13 doses of the vaccine;
- HCPH had a waitlist of employees to be given any extra doses;
- HCPH had a policy addressing the situation;
- Dr. Gokal had plans to steal more vaccines; and
- Dr. Gokal was short dosing individuals.

29. The information provided by HCPH led the District Attorney's office to file a criminal action against Dr. Gokal for theft by a public servant on January 21, 2021. The District Attorney's office held a press conference which can be summed up in its press release:



30. The information provided by HCPH was false and conjured up to attack Dr. Gokal, and in an attempt for HCPH to justify its wrongful termination of Dr. Gokal. For example, there was no written protocols as HCPH stated, nor a written waitlist:

From: Smith, Kimberly [mailto:SMITH_KIMBERLY@dao.hctx.net]
Sent: Tuesday, January 26, 2021 8:40 AM
To: Paul Doyle <paul@pauldoylelaw.com>
Subject: RE: Urgent Discovery Request

Paul,

I spoke with my investigator and she informed me that there weren't any written protocols at that time. They explained that the vaccine came out faster than expected and they immediately jumped from testing to vaccinating. We also were not provided with a written waitlist, and we are not sure if this waitlist was actually written down either, but my investigator is going to make contact to find out.

I will keep you updated.

Kimberly Brown Smith

<image001.png>

Assistant District Attorney

Harris County District Attorney's Office

Public Corruption Division

500 Jefferson Street

Houston, TX 77002

Office Phone: 713-274-5931

Work cell: 832-627-0280

31. Dr. Gokal also did not steal the Moderna vaccine to provide it to friends and family. Instead, the only individual that qualifies as a "friend" or "family" that received the vaccine is his wife, who Dr. Gokal did not give the vaccine to until time had nearly run out and with no one else available to receive the last vaccine dose.

32. On January 25, 2021, Judge Franklin Bynum dismissed the criminal charges stating the supporting "affidavit is riddled with sloppiness and errors" and that there was "no probable cause for the offense of theft." The District Attorney's office pressed on and took the case to a

grand jury. On June 30, 2021, a Harris County grand jury returned a “no bill,” finding no probable cause to prosecute Dr. Gokal.

33. Due to the misinformation provided by HCPH, Dr. Gokal went through a tortured six-month criminal investigation during which time his reputation was tarnished, his confidence was shattered, and he and his family were subjected to emotional distress.

D. HCPH Discriminated Against Dr. Gokal on the Basis of Race and National Origin

34. HCPH demonstrated a pattern of discrimination and hostility against Dr. Gokal based on his South Asian race and Pakistani national origin. In performing his job duties, comments, directives, and the general workplace environment all suggest Dr. Gokal’s South Asian race and Pakistani national origin was consistently held against him:

- a. During the earlier parts of the COVID-19 pandemic, Dr. Gokal was tasked with finding testing sites in the community and so he reached out to various local community and faith-based groups. There was significant interest in the community and so Dr. Gokal presented such options to Jenifer Kiger, Chief of Office of Public Health Preparedness and Response at HCPH, and Mac McClendon. Ms. Kiger never let Dr. Gokal present the proposal to HCPH.
- b. At the time Dr. Gokal worked at the NRG temporary hospital site, everyone at HCPH, along with other health authorities, was sharing new information daily to the leadership group. Ms. Kiger singled Dr. Gokal out and told him that he should not be contributing, even though Dr. Janeana White, to whom Dr. Gokal was assigned, told him to submit the ideas to leadership.
- c. On a different occasion, the University of Texas School of Public Health wanted Dr. Gokal to do a joint project and to apply for a \$5 million National Institute of Health

grant seeking to figure out how to increase COVID-19 testing rates in predominately African American and Hispanic communities in an effort to decrease infection rates. Dr. Gokal designed the project, but then Ms. Kiger found out, disbanded the group, stating that “we don’t have to do all that stuff” and that she “would rather that we work on other things.” As a result, the project—which could have helped the COVID-19 relief efforts—did not go through.

- d. During a period of time during the COVID-19 pandemic where there was starting to be an increase in Hispanic COVID cases in the community, Dr. Gokal, in an effort to save lives, asked for internal testing data to help make projections related to the uptick. Despite it being a part of Dr. Gokal’s job duties to analyze COVID-19 data and create solutions to preempt and combat the deadly virus, Ms. Kiger as well as Michael Schaffer (lead data person) told Dr. Gokal that it was not necessary for him to look at the issue and that Dr. Gokal should “let the data guys do their work, and there’s no need for him to get involved.” Shortly after, the Hispanic deaths in the community skyrocketed.
- e. Dr. Gokal was also routinely purposely left out of meetings by Ms. Kiger and, as a result, he was denied important information necessary to do his job.
- f. While Dr. Gokal was at HCPH, the County Attorney’s office did an investigation against Michael Schaffer. During that investigation, Eileen Begle of the County Attorney’s office was referred to Dr. Gokal by Dr. Umair Shah to talk to the attorney conducting the investigation. Dr. Gokal expressed his concern that if he were candid, he would be targeted. Ms. Begle confirmed to Dr. Gokal that he was covered by the anti-retaliation protections and would not be retaliated against. Dr. Gokal candidly

told the county attorney all of his experiences with Mr. Schaffer. Shortly after, Mr. Schaffer was cleared and has worked closely with Ms. Kiger ever since.

35. Dr. Gokal even reported Ms. Kiger's actions and behaviors towards him on several occasions to Dr. Umair Shah, Gwen Sims, Sheri Onyiego, and Will Hudson. Nothing was done. Instead, Ms. Kiger facilitated, in conjunction with other individuals at HCPH, a revenge campaign rooted in discriminatory-based disdain to get Dr. Gokal fired.

36. HCPH's termination and relentless false information campaign is the epitome of malice and recklessness. Indeed, HCPH never interviewed Dr. Gokal, never took his statement, never asked for his side of the story, conducted no internal investigation of the matter, and never sought to get the facts straight. Yet, HCPH, with malice and recklessness, sought to get Dr. Gokal stripped of his medical license (which is his livelihood) and indicted criminally for theft of a vial of vaccine that would have otherwise been thrown in the trash.

37. At the time of his termination, Dr. Gokal had every intention to stay with HCPH. To this day, Dr. Gokal remains qualified and able to perform the duties that he had as an HCPH employee. Since his termination, Dr. Gokal has diligently and aggressively sought new employment, even applying for positions that he was offered prior to HCPH's termination; however, HCPH's termination and misinformation campaign has turned those potential employers away.

38. On July 6, 2021, Dr. Gokal filed his charge of discrimination.

VI. CAUSES OF ACTION

Count I: Violation of Tex. Labor Code § 21.001 *et seq.*

39. Dr. Gokal incorporates all preceding paragraphs as incorporated herein.

40. HCPH violated Dr. Gokal's rights under Tex. Labor Code §§ 21.001 *et seq.* by discharging and otherwise discriminating against him on the basis of his South Asian race and Pakistani national origin with respect to his privileges of employment.

41. Dr. Gokal is South Asian and from Pakistan, therefore, he is a member of a protected class.

42. Dr. Gokal remains qualified for the job he held while employed by HCPH. Moreover, Dr. Gokal diligently performed the requirements of every job he had at HCPH.

43. HCPH terminated Dr. Gokal's employment on January 7, 2021.

44. Dr. Gokal's former position remains open.

45. HCPH also treated Dr. Gokal less favorably than other similarly-situated employees.

46. Race and national origin were motivating factors in HCPH's decision to terminate Dr. Gokal.

47. Dr. Gokal suffered damages as a result of HCPH's violations of the Texas Labor Code. Dr. Gokal seeks monetary relief over \$1,000,000 along with all other relief to which he is properly entitled. The damages sought are within the jurisdictional limits of the court. As a result of HCPH's violations of Texas Labor Code 21.001, *et seq.*, Gokal has not only suffered lost wages and back and front pay, but other pecuniary losses, emotional pain, suffering, mental anguish and loss of enjoyment of life as those terms are defined under the Texas Labor Code, and specifically, Texas Labor Code Section 21.2585.

VII. JURY DEMAND

Dr. Gokal hereby demands a trial by jury of the above-styled action pursuant to Texas Rule of Civil Procedure 216(a).

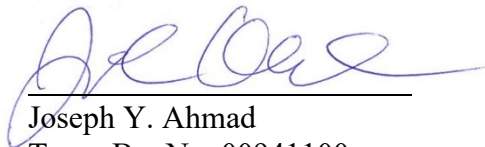
VIII. PRAYER

For these reasons, Dr. Gokal prays that this Court enter a judgment in his favor and against HCPH for the following:

- 1) Actual Damages;
- 2) Compensatory Damages;
- 3) Reasonable Attorney's fees, including expert witness fees;
- 4) Pre-judgment and post-judgment interest;
- 5) Court costs; and
- 6) All further legal and equitable relief to which Dr. Gokal is justly and reasonably entitled.

Respectfully submitted,

**AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI &
MENSING P.C.**



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