

Australian Court Blocks COVID Vaccine Challenge

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By Rebekah Barnett

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...e who previously provided legal counsel to Pfizer has blocked a
...challenge over Moderna's and Pfizer's mRNA COVID vaccines,
...g efforts to raise the alarm over alleged unregulated genetically
...ed organisms (GMOs), including high levels of DNA
...mination, in the vials.

The dismissal of the lawsuit on the procedural matter of standing is the latest in a string of COVID vaccine-related cases thrown out by Australian courts on narrowly interpreted technicalities, raising questions about the integrity of the courts in arbitrating disputes involving powerful pharmaceutical interests.

Victorian pharmacist and General Practitioner (GP) Dr. Julian Fidge filed for an injunction in July of last year to prevent Moderna and Pfizer from distributing their products in Australia because they allegedly contain unapproved genetically modified organisms (GMOs). It is a serious criminal offence under the [Gene Technology Act \(2000\)](#) to “deal with” unapproved GMOs in Australia.

The [case alleged](#) that the mRNA vaccines contain GMOs in two forms—the modified RNA wrapped in lipid nanoparticles (LNP-mod-RNA complexes), and fragments of [plasmid DNA contamination](#)—for which Pfizer and Moderna never obtained the proper approvals from the Office of the Gene Technology Regulator (OGTR).

The OGTR denies that the Pfizer and Moderna vaccines are or contain GMOs, or that the products required a licence from the OGTR before being distributed in Australia, characterising such claims as “misinformation” in a [statement](#) released in December of last year.

However, subject to any possible appeal, the case will not be heard in the Courts. In a decision handed down on 1 March, Justice Rofe dismissed Dr. Fidge's application, claiming that he lacks standing due to not being considered an "aggrieved person" under the Act.

But Dr. Fidge's lawyers say the decision "doesn't pass the pub test."

"Not only was the case dismissed on a narrowly interpreted technicality, but it is concerning that Justice Rofe has previously provided legal counsel to Pfizer in her private capacity as a barrister before her appointment to the Federal Court," said instructing solicitor Katie Ashby-Koppens of Sydney law firm PJ O'Brien & Associates after the decision was handed down.

As one of the respondents in the lawsuit brought by Dr. Fidge, Pfizer stands to benefit from Justice Rofe's decision to dismiss the case. Additionally, Dr. Fidge has been ordered to pay Pfizer's and Moderna's costs.

Federal Court records show that Justice Rofe provided counsel on Pfizer's legal team on at least four occasions (in 2003, 2004, 2005, and 2006) before she was appointed as a Federal Court Judge in 2021.

"Out of all the Federal Judges, she didn't need to be on the matter. It undermines the Courts that Justice Rofe was assigned to this case," said Ashby-Koppens, who claims that her legal team was not advised of Justice Rofe's past dealings with Pfizer at any point in the process.

Dr. Fidge expressed dismay at Justice Rofe's decision that he does not have standing as an "aggrieved person" to bring the case against Pfizer and Moderna. In legal filings, Dr. Fidge argued that he has standing in professional, personal, private, and public capacities.

“I’ve been vaccinated with these mRNA COVID-19 vaccines, and I’ve vaccinated thousands of patients, including my own children,” Dr. Fidge [said](#) at the time of filing, in July 2023.

“It’s hard to understand how I am not an aggrieved person, when I’ve not been able to satisfy my legal, moral and ethical obligations to provide informed consent to all my patients that they will receive GMOs in these vaccines,” he stated in response to his case’s dismissal.

Justice Rofe determined that Dr. Fidge does not have standing because administration of GMOs is not a “dealing” covered by the Act, and “the applicant must establish that the grievance he will suffer as a result of the breaches is beyond that of an ordinary member of the public and is more than a mere emotional or intellectual concern.”

Ashby-Koppens is concerned that the decision overturns legal tradition by introducing standing to dismiss a general civil action brought against a company for wrongdoing.

“This is the latest decision in a pattern where the courts are simply refusing to hear evidence by throwing actions out at the earliest preliminary phase possible,” she said.

“It is concerning that where cases have been brought in respect to large pharmaceutical interests that the courts are not allowing the cases to get beyond first base.”

The legal blow is just one of a series of COVID vaccine-related cases brought by members of Dr. Fidge’s legal team that have been dismissed by the Courts on procedural technicalities.

A [lawsuit](#) seeking to revoke the provisional approval of Moderna’s SPIKEVAX vaccine for babies and toddlers was dismissed, in an

unprecedented in-chambers decision, on the basis that it would, “unduly divert the Court from its principal functions,” in March 2023. This was despite the legal team highlighting to the High Court that the case involved “preventable deaths and injuries.”

Another [lawsuit](#) seeking to prevent the administration of the Pfizer vaccine to children aged five to 11 was dismissed by the Federal Court on the issue of standing, in June 2022.

“These kinds of decisions, especially when made by Judges who have not declared potential conflicts, do not promote faith in the courts,” remarks Ashby-Koppens.

The Federal Court was contacted for comment but did not respond by publication deadline.

Dr. Fidge’s legal team said they are reviewing Justice Rofe’s decision and are considering an appeal.

From the [Brownstone Institute](#)

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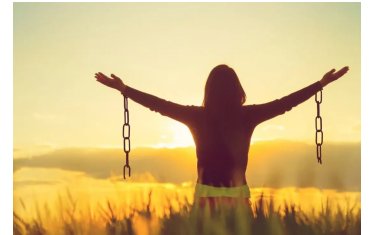


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