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7  
 8 **IN THE UNITED STATES DISTRICT COURT**  
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 **RICHARD BOWIE**, an individual  
 11  
 Plaintiff,  
 12  
 v.  
 13 **KAISER FOUNDATION HEALTH**  
 14 **PLAN, INC.**  
 15  
 Defendant.

Case No.: 23-cv-06546-DMR

**PLAINTIFF RICHARD BOWIE’S  
 OPPOSITION TO DEFENDANT  
 KAISER FOUNDATION HEALTH  
 PLAN, INC.’S MOTION TO  
 DISMISS**

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## I. INTRODUCTION

1  
2 Plaintiff Richard Bowie (“Plaintiff” or “Mr. Bowie”) worked as an Executive  
3 Director of Clinical Technology Service Delivery for Defendant Kaiser Foundation  
4 Health Plan, Inc. (“Defendant”) from 2015 until Defendant fired him for refusing the  
5 COVID-19 vaccine due to his religious beliefs. In its Motion to Dismiss (“Motion”),  
6 Defendant makes light of Mr. Bowie’s sincerely held religious beliefs, and seemingly  
7 applies its own skewed religious test to Mr. Bowie’s valid religious exemption request  
8 to its COVID-19 vaccine mandate. Defendant’s Motion misinterprets Mr. Bowie’s  
9 religious beliefs, and instead of acknowledging his sincerely held objections to  
10 receiving the COVID-19 vaccine, Defendant assumes the role of a theologian,  
11 asserting authority over what constitutes a “valid” religious objection to its vaccine  
12 mandate. However, Mr. Bowie’s Complaint alleges sufficient facts for each of his  
13 causes of action against Defendant. The Court should deny Defendant’s Motion to  
14 Dismiss for the following reasons.

15 *First*, Mr. Bowie’s Second and Fifth Causes of Action should not be dismissed  
16 because the Complaint alleges facts demonstrating a bona fide religious belief that  
17 conflicted with Defendant’s vaccine mandate.

18 *Second*, Mr. Bowie’s First Cause of Action should not be dismissed because  
19 the Complaint alleges facts demonstrating differing treatment of other similarly  
20 situated individuals.

21 *Third*, Mr. Bowie’s Third and Fourth Causes of Action should not be dismissed  
22 because the Complaint alleges facts establishing a causal link between Mr. Bowie’s  
23 exemption request and Defendant’s termination of his employment.

24 In sum, Defendant does not proffer any legitimate arguments that should  
25 preclude this Court from reaching the merits of this case. Defendant is simply  
26 grasping at straws to avoid being held accountable for its numerous and obvious  
27 violations against Mr. Bowie. Accordingly, this Court should dismiss Defendant’s  
28

1 Motion to Dismiss. Accordingly, if the Court is inclined to dismiss, it should grant  
2 Mr. Bowie leave to amend.

## 3 II. LEGAL STANDARD

4 When deciding a Rule 12(b)(6) motion, “all well-pleaded allegations of  
5 material fact are taken as true and construed in a light most favorable to the non-  
6 moving party.” *Wylar Summit P’ship v. Turner Broad. Sys., Inc.*, 135 F.3d 658, 661  
7 (9th Cir. 1998). If the complaint provides fair notice of the claim and the factual  
8 allegations are sufficient to show that the right to relief is plausible, a court should  
9 deny the defendant’s motion. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

10 A complaint should not be dismissed without leave to amend unless there is  
11 strong evidence that an amendment will result in “undue delay, bad faith, ... repeated  
12 failure to cure deficiencies by amendments previously allowed ... [or] futility of  
13 amendment ....” *Sonoma Cnty. Ass’n of Retired Emps. v. Sonoma Cnty.*, 708 F.3d  
14 1109, 1117 (9th Cir. 2013) (quotation omitted); *see also* Fed. R. Civ. P. 15. Courts  
15 liberally grant leave to amend. *K.T. v. Pittsburg Unified Sch. Dist.*, 219 F. Supp. 3d  
16 970, 976 (N.D. Cal. 2016). The Court should examine whether the complaint can be  
17 amended to cure the defect “without contradicting any of [the] original complaint.”  
18 *Reddy v. Litton Indus.*, 912 F.2d 291, 296 (9th Cir. 1990).

## 19 III. STATEMENT OF FACTS

### 20 A. Mr. Bowie’s Religious Beliefs

21 Plaintiff Richard Bowie was, and continues to be a devout and practicing  
22 Christian. His Christian religious faith was, and continues to be, a central part of his  
23 life and identity. Complaint (ECF No. 1), ¶ 16. During the COVID-19 pandemic, his  
24 Christian faith did not weaken, but his religious beliefs and practices became stronger.  
25 *Id.*, ¶ 17. In accordance with Mr. Bowie’s religious beliefs, he believes that his body  
26 is a temple of the Holy Spirit as referenced in 1 Corinthians 6:19-20, and that he is  
27 commanded to take care of his body, not to defile his body, and not to introduce  
28 something into it that could potentially harm his body. *Id.*, ¶ 18. As such, he takes

1 great care to ensure that no unknown or untested substances enter his body. *Id.*, ¶ 19.  
2 He also believes that what he puts into his body is a personal decision driven by the  
3 convictions of the Holy Spirit and the Holy Bible. *Id.*, ¶ 20.

#### 4 **B. Mr. Bowie's Employment History**

5 In or around August 2015, Mr. Bowie began working for Defendant as a Senior  
6 Manager of Clinical Technology of Southern California. *Id.*, ¶ 21. In or around June  
7 2017, Mr. Bowie was promoted to Executive Director of Clinical Technology Service  
8 Delivery where he continued until Defendant terminated his employment in January  
9 2022. *Id.*, ¶ 22. In this position, Mr. Bowie managed a team of over 400 Kaiser  
10 Permanente team members. *Id.*, ¶ 23. Mr. Bowie's team was responsible for managing  
11 maintenance on an inventory of approximately \$4 billion in assets which equated to  
12 greater than \$160 million annual operating budget. *Id.* Mr. Bowie and his team were  
13 responsible for onboarding Kaiser Permanente medical equipment, responding to  
14 requests for maintenance of medical equipment, as well as scheduling planned  
15 equipment maintenance, managing manufacturer recalls, and decommissioning of  
16 equipment at the end of its life cycle. *Id.*, ¶ 24. Mr. Bowie ensured that all  
17 responsibilities were covered by the appropriate team members. *Id.* From  
18 approximately August 2017 to December 2018, Mr. Bowie maintained a part-time  
19 residence near his office in Oakland, California in order to go into the office in-person.  
20 *Id.*, ¶ 25. From January 2019 until his termination in January 2022, Mr. Bowie worked  
21 remotely from his home in Murrieta, California with occasional travel to meetings in  
22 administrative areas. *Id.*, ¶ 26.

#### 23 **C. Defendant's COVID-19 Vaccine Mandate Policies**

24 In or around August 2021, Defendant announced its COVID-19 vaccine  
25 mandate policy ("Vaccine Mandate"), which required that employees obtain a  
26 COVID-19 vaccine or an exemption to be completed by September 30, 2021. *Id.*, ¶  
27 27. Mr. Bowie has sincerely held religious beliefs that prevent him from receiving the  
28 mandated COVID-19 vaccines. *Id.*, ¶ 28. Specifically, Mr. Bowie objected to

1 receiving the COVID-19 vaccines because he believes that his body is the temple of  
2 the Holy Spirit, and as such, he is to care for his body, not to defile his body, and must  
3 not introduce something into it that could potentially harm his body. *Id.*, ¶ 29. He also  
4 objected to receiving the COVID-19 vaccines because what he puts into his body is a  
5 personal decision driven by the convictions of the Holy Spirit and the Holy Bible. *Id.*,  
6 ¶ 30. His religious beliefs prohibited him from receiving the COVID-19 vaccines. *Id.*

#### 7 **D. Defendant’s Denial of Mr. Bowie’s Request for a Religious** 8 **Accommodation**

9 On August 19, 2021, Mr. Bowie submitted a written request for a religious  
10 accommodation to be exempted from Defendant’s vaccine mandates. *Id.*, ¶ 31. In his  
11 written request, he explained his religious reasons for conscientiously objecting. *Id.*  
12 Mr. Bowie stated that he is a “Christian and a firm believer in the Bible.” *Id.*, ¶ 32.  
13 He reiterated that he believes his body is a temple of the Holy Spirit, referencing 1  
14 Corinthians 6:19-20. *Id.* On September 28, 2021, Defendant provisionally approved  
15 Mr. Bowie’s religious accommodation request. *Id.*, ¶ 33.

16 On Friday, October 8, 2021, at 10:08 p.m., Defendant sent Mr. Bowie an email  
17 to his work address requesting additional information regarding the sincerity of his  
18 religious beliefs. *Id.*, ¶ 34. Defendant gave Mr. Bowie three calendar days to respond  
19 to the email. *Id.* On October 11, 2021, Mr. Bowie responded to the questions and  
20 again referenced his religious belief that his body is a temple of the Holy Spirit and  
21 that what he puts into his body is a decision governed by God. *Id.*, ¶ 35.

22 Mr. Bowie did not receive any additional communication from Defendant  
23 regarding his religious accommodation request or an invitation to enter into an  
24 interactive process to determine reasonable accommodations. *Id.*, ¶ 36.

25 On or about October 22, 2021, Defendant, without any notice to Mr. Bowie,  
26 revoked Mr. Bowie’s access to company systems, including email and work  
27 applications. *Id.*, ¶ 37. Mr. Bowie contacted his immediate supervisor, Andy Ulvenes,  
28 and Human Resources Representative Redonha Means via text to inquire about why

1 he could not access his email or company systems. *Id.*, ¶ 38. Mr. Ulvenes told Mr.  
2 Bowie that this issue was a “total surprise” to him. *Id.*, ¶ 39. Ms. Means attempted to  
3 pull Mr. Bowie’s name up in the company system to determine his status but told Mr.  
4 Bowie that she could not see his name in the company system. *Id.*, ¶ 40. She told Mr.  
5 Bowie that she escalated the issue to her manager. *Id.* Mr. Bowie called the HelpDesk  
6 for further assistance and was told that his account had been placed on hold “due to  
7 the Covid stuff.” *Id.*, ¶ 41.

8 On or about November 3, 2021, Ms. Means informed Mr. Bowie that his access  
9 to his email and company systems had been reinstated. *Id.*, ¶ 42. From October 11,  
10 2021, until November 4, 2021, Mr. Bowie did not receive any communication from  
11 Defendant regarding his religious accommodation request or any interactive process  
12 to determine reasonable accommodation. *Id.*, ¶ 43. On November 4, 2021, Defendant  
13 sent Mr. Bowie an email informing him that it was denying his religious  
14 accommodation request and that he had five days to comply with its COVID-19  
15 vaccine mandate. *Id.*, ¶ 44. If he failed to comply, he faced termination of his  
16 employment. *Id.*

17 Defendant did not provide Mr. Bowie with any explanation for denying his  
18 religious accommodation request other than that his request did “not meet the  
19 standards necessary for granting an exemption from obtaining any COVID-19  
20 vaccine.” *Id.*, ¶ 45. Defendant did not have any objective factual basis to question the  
21 validity, sincerity, or consistency of Mr. Bowie’s religious beliefs or observance. *Id.*,  
22 ¶ 46.

### 23 **E. Defendant’s Termination of Mr. Bowie’s Employment**

24 At no time after receiving Mr. Bowie’s religious accommodation request did  
25 Defendant acknowledge or address Mr. Bowie’s religious objections to the COVID-  
26 19 vaccine. *Id.*, ¶ 47. At no time after receiving Mr. Bowie’s religious accommodation  
27 request did Defendant make any attempt to engage in an interactive process with Mr.  
28 Bowie to explore “any available reasonable alternative means of accommodating the

1 religious belief or observance” (Gov. Code § 12940, subd. (1)(1)). *Id.*, ¶ 48. At no time  
2 after receiving Mr. Bowie’s religious accommodation requests did Defendants  
3 explain to Mr. Bowie that his religious accommodation request would pose an undue  
4 hardship (i.e. significant difficulty or expense) for Defendant. *Id.*, ¶ 49. The Defendant  
5 had the ability to accommodate Mr. Bowie. Defendant safely accommodated  
6 approximately 2/3 of the 16,000+ religious accommodation requests it received. *Id.*,  
7 ¶ 50.

8 At no time after receiving Mr. Bowie’s religious accommodation requests did  
9 Defendant explain to Mr. Bowie why his religious beliefs or practices did not merit  
10 religious accommodation. *Id.*, ¶ 51. At no time during his employment with Defendant  
11 did Mr. Bowie refuse to wear a mask at work, either generally or specifically, as an  
12 accommodation in lieu of receiving the mandated COVID-19 vaccine. *Id.*, ¶ 52.

13 Defendant was not aware of any lawful reason why Mr. Bowie’s religious  
14 beliefs did not merit religious accommodation. *Id.*, ¶ 53. Other employees of  
15 Defendant received medical and religious accommodations to the COVID-19 vaccine  
16 mandates and were not subject to the discriminatory treatment that Mr. Bowie  
17 received of being terminated from their positions. *Id.*, ¶ 54.

18 Defendant would have suffered no undue hardship (significant burden or  
19 expense) by granting Mr. Bowie’s requested religious accommodation, as it did so for  
20 other employees. *Id.*, ¶ 55. Mr. Bowie could have worn a face covering to minimize  
21 and prevent exposure to COVID-19, or been subject to symptom screening, regular  
22 testing and other precautionary measures, which other exempted employees were  
23 allowed to do even after the vaccine mandates were implemented. *Id.* Mr. Bowie even  
24 confirmed with Defendant that he would be willing to wear a face covering or comply  
25 with any other safety requirements deemed necessary, other than vaccination. *Id.*, ¶  
26 56. Additionally, Mr. Bowie’s position did not require that he be onsite at any Kaiser  
27 Permanente facility. *Id.*, ¶ 57. He was able to fulfill his role and responsibilities  
28 remotely. *Id.* Consistent with his sincerely held religious beliefs, Mr. Bowie did not

1 comply with Defendant’s COVID-19 vaccine mandate. *Id.*, ¶ 58.

2 After denying his religious accommodation request on November 4, 2021, on  
3 or about December 10, 2021, Defendant, without any notice to Mr. Bowie, again  
4 revoked Mr. Bowie’s access to his company emails and programs. *Id.*, ¶ 59. On or  
5 about January 10, 2022, Defendant terminated Mr. Bowie from his position. *Id.*, ¶ 60.

6 In his position as Defendant’s Executive Director of Clinical Technology  
7 Service Delivery, as of December 31, 2021, Mr. Bowie was on track to earn  
8 approximately \$296,000 in salary and annual incentive pay. *Id.*, ¶ 61. Mr. Bowie was  
9 also on track to earn \$30,000 as part of Defendant’s long-term incentive plan, which  
10 fully vested December 31, 2021, and would have been paid out to Mr. Bowie in or  
11 about April 2022. *Id.* On or about January 31, 2022, Memorial Hermann Health  
12 System hired Mr. Bowie as a full-time employee, wherein Memorial Hermann Health  
13 System granted Mr. Bowie’s religious accommodation request from its COVID-19  
14 vaccination policy. *Id.*, ¶ 62.

15 **F. Mr. Bowie’s Charge of Religious Discrimination with the EEOC**

16 On January 11, 2022, Mr. Bowie filed a complaint of religious discrimination  
17 with the Equal Employment Opportunity Commission (“EEOC”). *Id.*, ¶ 63. On  
18 October 6, 2023, the EEOC issued Mr. Bowie a “Notice Of Your Right To Sue.” *Id.*,  
19 ¶ 64. California’s Department of Fair Employment and Housing issued Mr. Bowie a  
20 right-to-sue letter on January 11, 2022. *Id.*, ¶ 65.

21 **IV. ARGUMENT**

22 **A. Mr. Bowie alleges facts demonstrating a bona fide religious belief that**  
23 **conflicted with Defendant’s Vaccine Mandate.**

24 Defendant argues that Mr. Bowie’s failure to accommodate claims (Second  
25 Cause of Action and Fifth Cause of Action) under Title VII and FEHA must be  
26 dismissed because Mr. Bowie did not establish a bona fide religious belief that  
27 conflicted with an employment duty. Mot. at 8-15. Defendant also argues that Mr.  
28 Bowie failed to adequately inform Defendant of the nature of that belief and conflict.

1 Mot. at 8-14.<sup>1</sup> However, Defendant misapplies the applicable legal standard and  
 2 attempts to insert its own interpretation of Mr. Bowie’s religious beliefs.

3 **1. Mr. Bowie asserted a bona fide religious belief.**

4 Both Title VII and FEHA forbid an employer from terminating a person’s  
 5 employment because of a conflict between the person’s religious beliefs and an  
 6 employment requirement. 42 U.S.C. § 2000e(j); Cal. Gov’t Code § 12940(a). “Both  
 7 statutes require employers to accommodate [employees’] religious beliefs unless  
 8 doing so would impose an undue hardship.” *Bolden-Hardge v. Off. of California State*  
 9 *Controller*, 63 F.4th 1215, 1222 (9th Cir. 2023). “To plead a prima facie case of  
 10 failure to accommodate religion under Title VII and FEHA, a plaintiff must allege,  
 11 among other things, that [he] holds ‘a bona fide religious belief’ that conflicts with an  
 12 employment requirement.” *Bolden-Hardge*, 63 F.4th at 1222. A religious belief “need  
 13 not be consistent or rational to be protected under Title VII, and an assertion of a  
 14 sincere religious belief is generally accepted.” *Keene v. City & Cnty. of San*  
 15 *Francisco*, No. 22-16567, 2023 WL 3451687, at \*2 (9th Cir. May 15, 2023); *see also*  
 16 EEOC Guidance, § 12–I(A)(2) (“[T]he sincerity of an employee’s stated religious  
 17 belief is usually not in dispute and is generally presumed or easily established.”  
 18 (cleaned up)).

19 Defendant argues that Mr. Bowie failed to establish a bona fide religious belief  
 20 that conflicted with the Vaccine Mandate and failed to inform Defendant of that  
 21 conflict. Mot. at 8. Relying on Equal Employment Opportunity Commission  
 22 (“EEOC”) guidance, Defendant noted that objections “based on social, political, or  
 23

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24  
 25 <sup>1</sup> Defendant erroneously asserts that Mr. Bowie also alleged objections to the concept of a “mandate.” Mot. at 13-15.  
 26 Nowhere in his Complaint does Mr. Bowie assert that he has a religious objection to a “mandate.” Mr. Bowie’s religious  
 27 objections were to receiving the COVID-19 vaccine. When asked whether he had previously requested any  
 28 accommodations based on the religious belief that prevented him from receiving a COVID-19 vaccine, Mr. Bowie noted  
 that he had refused the flu vaccine by completing the flu declination, but that he did not need to raise his religious beliefs  
 because there was not previously a flu vaccine “mandate” that required an accommodation. *See* Strausse Decl., Exh. C  
 at 5.

1 economic views or personal preferences, or any other nonreligious concerns . . . are  
2 not protected by Title VII.” Mot. at 9 (citing EEOC, *What You Should Know About*  
3 *COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, at L.2 (Oct.  
4 25, 2021), available at [https://www.eeoc.gov/wysk/what-you-shouldknow-about-](https://www.eeoc.gov/wysk/what-you-shouldknow-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#L)  
5 [covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#L](https://www.eeoc.gov/wysk/what-you-shouldknow-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#L)). Defendant attempts to  
6 morph Mr. Bowie’s obvious religious objections to the Vaccine Mandate to these  
7 nonreligious categories. Yet, Mr. Bowie’s objections to the Vaccine Mandate are  
8 clearly religious in nature and demonstrate a clear conflict with Defendant’s Vaccine  
9 Mandate.

10 Mr. Bowie’s Complaint pleads facts demonstrating a bona fide religious belief.  
11 Complaint, ¶¶ 28-30, 32. And the documents that Defendant incorporates by reference  
12 further solidify his religious beliefs identified in his Complaint. *See* Declaration of  
13 Sean T. Strauss [“Strauss Decl.”], Exhs. A-C. Defendant has not and cannot  
14 demonstrate any facts in the Complaint or incorporated documents that Mr. Bowie’s  
15 religious beliefs are not sincere or religious. Defendant’s argument that Mr. Bowie’s  
16 “body temple” objection to the Vaccine Mandate is not religious is baffling. Mot. at  
17 10. Its feeble attempts at playing theologian fall short given that the “body temple”  
18 objection is rooted in the Bible and is religious on its face. Complaint, ¶¶ 28-30, 32.  
19 While Defendant provides a string citation of cases in which courts found that the  
20 “body temple” objection was insufficient for purposes of failure to accommodate  
21 claims, most, if not all, plaintiffs in those cases raised medical concerns which led the  
22 courts to hold that their religious objection was a cover for their personal, nonreligious  
23 decisions to not receive the COVID-19 vaccine. Mot. at 11. That is not the case here  
24 as discussed below. And there are cases in which plaintiffs provided far less  
25 information than Mr. Bowie in which courts upheld plaintiffs’ “body temple” religious  
26 objections. *See Prodan v. Legacy Health*, No. 3:23-CV-01195-HZ, 2024 WL 665079  
27 (D. Or. Feb. 12, 2024); *Petermann v. Aspirus, Inc.*, No. 3:22-cv-00332-jdp, 2023 WL  
28 2662899, at \*2 (W.D. Wis. Mar. 28, 2023).

1 To the extent that Defendant attempts to attack Mr. Bowie’s religious beliefs,  
2 it fails to adequately refute the religious nature of his objections to the COVID-19  
3 vaccine. Defendant’s reliance on the unreported, out-of-state district court case  
4 *Ellison v. Inova Health Care Services*, --- F.Supp.3d ----, No. 1:23-cv-00132-MSN-  
5 LRV, 2023 WL 6038016 (E.D. Va. Sept. 14, 2023) is misplaced. Mot. at 10. The court  
6 addressed plaintiffs’ religious objections to the employer’s COVID-19 vaccine  
7 mandate, which included their objection to the mandate because of their belief that  
8 their bodies were temples of the Holy Spirit. *Ellison*, 2023 WL 6038016, at \*4-5. The  
9 Virginia district court dismissed the failure to accommodate claims because they were  
10 not rooted in concerns that were religious in nature. *Id.* For instance, Ellison “refused  
11 the vaccine based on concerns of vaccine safety” and supported his claims “through  
12 references to his ‘personal analyses’ of CDC and FDA database.” *Id.* As to Jenkins  
13 and Graham, the court held their exemption request amounted to a “blanket privilege.”  
14 *Id.*, at \*5. The court noted that Jenkins’ prefaced his belief that his body is a temple  
15 of the Holy Spirit with the explanation that he is required to “protect the physical  
16 integrity of his Body” which he does by “pray[ing] over every decision [he] make[s]  
17 concerning his body or [his] health.” *Id.* While each of these plaintiffs raised “body  
18 temple” objections, the court rejected their objections, because the reasons that these  
19 plaintiffs were refusing the Covid-19 vaccine was rooted in concerns over the safety  
20 of the vaccine or because they asserted a “blanket privilege” against medical  
21 intervention. *Id.*, at \*6. The court found these plaintiffs’ objections to be secular in  
22 nature even if couched in religious language.

23 Defendant does not point to any secular aspect of Mr. Bowie’s objection in its  
24 Motion. After issuing its Vaccine Mandate, Mr. Bowie completed an employer-  
25 provided COVID-19 vaccination exemption form. Complaint, ¶¶ 27-29; Strausse  
26 Decl., Exh. A at p. 1. On this exemption form, Mr. Bowie acknowledged that he has  
27 “a sincerely held religious belief, practice, or observance that prevents me from  
28 receiving any COVID-19 vaccine.” *Id.* This acknowledgment alone would be

1 sufficient to demonstrate a bona fide religious belief. *See Keene*, 2023 WL 3451687,  
2 at \*2 (“[A]n assertion of a sincere religious belief is generally accepted.”). However,  
3 Mr. Bowie also asserted on the form that he is a “Christian and a firm believer in the  
4 Bible.” Strausse Decl., Exh. A at p. 1. He then proceeded to explain “the specific  
5 religious doctrine or teaching that prevents me from receiving a vaccine,” stating the  
6 following:

7 I believe my body is the temple of the Holy Spirit, and what I put  
8 into my body is between me and my God. 1st Corinthians 6:19-  
9 20 states: “Do you not know that your bodies are temples of the  
10 Holy Spirit, who is in you, whom you have received from God?  
You are not your own,; [sic] you were bought at a price”

11 *Id.* Not only did Mr. Bowie identify a specific religious doctrine, but he also provided  
12 a Bible reference (1 Corinthians 6:19-20) supporting this doctrine. *Id.* Mr. Bowie  
13 clearly stated that his objection to receiving the vaccine was due to his belief, rooted  
14 in 1 Corinthians 6:19-20, that his body is a temple of the Holy Spirit, that his body is  
15 not his own, and that what he puts in his body is a decision between him and God.  
16 Complaint, ¶¶ 18-20. This objection does not amount to a blanket privilege. His stated  
17 beliefs do not assert a blanket privilege against *all* medical intervention like the  
18 plaintiffs in *Ellison* asserted. *Cf. Ellison*, 2023 WL 6038016, at \*5-6. Rather, he  
19 objected to introducing a foreign substance, such as the COVID-19 vaccine, into his  
20 body, *because* his body is a temple of the Holy Spirit and he does not own his body.  
21 When Defendant requested additional information regarding his religious beliefs, Mr.  
22 Bowie also noted that he refused to receive the flu vaccine on the same religious  
23 objections that he provided for receiving the COVID-19 vaccine. Strausse Decl., Exh.  
24 C at 5. Mr. Bowie indicated that he did not previously disclose his religious beliefs to  
25 Defendant at the time he declined the flu vaccine, because Defendant had never  
26 mandated the flu vaccine so he did not need to state his reasons for not receiving the  
27 flu vaccine. *Id.*

28 *Prodan v. Legacy Health* is instructive here (and notably absent from

1 Defendant’s Motion). 2024 WL 665079. In *Prodan*, both plaintiffs identified the  
2 religious belief that the body is a temple of “God” or the “Holy Spirit” and alleged  
3 that obtaining the COVID-19 vaccine violates that belief. *Id.*, at \*4. The court found  
4 these allegations sufficient to plead a bona fide religious belief in conflict with an  
5 employment duty. *Id.* The court held that cases in “which plaintiffs allege a religious  
6 belief and a general statement that acquiring the vaccine is in conflict with that belief,”  
7 plaintiffs’ claims were sufficient to establish a sincere religious belief, because  
8 “[s]uch allegations are enough to ‘allow[] the court to draw the reasonable inference  
9 that the defendant is liable for the misconduct alleged’ and is more than a ‘threadbare  
10 recital[] of a cause of action’s elements, supported by mere conclusory statements.’”  
11 *Id.*, at \*3 (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009)). Mr. Bowie provided  
12 more than a general statement that acquiring the vaccine is in conflict with his  
13 religious beliefs, instead asserting that he believes his body is a temple of the Holy  
14 Spirit, that he is commanded to take care of his body, not to defile his body, and to  
15 ensure that no unknown or untested substances enter his body. Complaint, ¶ 18-20.  
16 His body is not his own, and what he puts into his body is a decision between him and  
17 God, to be governed by the Holy Spirit and the Bible. *Id.*, 20. These religious beliefs  
18 are sufficient to allow the Court “to draw a reasonable inference that defendant is  
19 liable for the misconduct alleged.” *Prodan*, 2024 WL 665079, at \*3.

20 When evaluating the sufficiency of a complaint’s factual allegations, the court  
21 must accept all material facts alleged in the complaint as true and construe them in  
22 the light most favorable to the non-moving party. *Wilson v. Hewlett-Packard Co.*, 668  
23 F.3d 1136, 1140 (9th Cir. 2012). Defendant’s conclusions and reasoning require the  
24 court to construe the facts—Mr. Bowie’s own religious beliefs and convictions—  
25 against Mr. Bowie. Defendant’s propositions would leave no opportunity for an  
26 employee to religiously object to an employer mandate to inject a foreign substance  
27 into one’s body based upon one’s belief that their body is a temple of the Holy Spirit  
28 and that any decision to introduce a foreign substance to the body must be guided by

1 the conviction of the Holy Spirit and the Bible.

2 After submitting this exemption request form, Defendant accepted his religious  
3 objections and *approved* Mr. Bowie’s exemption request form. Complaint, ¶ 33.  
4 While the approval notification from Defendant to Mr. Bowie noted that the approval  
5 was “provisional,” nothing in the notification indicated that Mr. Bowie’s religious  
6 beliefs would be further questioned or later deemed insufficient. Strausse Decl., Exh.  
7 B at p. 1. Indeed, the notification only noted that Defendant’s provisional decision  
8 was “subject to change based on frequently changing conditions, such as COVID-19  
9 infection levels, and changes in public health guidance, legal requirements, and KP  
10 policies and practices.” *Id.* Notably, Defendant did not indicate that it would revoke  
11 approval decisions due to a reconsideration of an employee’s religious beliefs. It is  
12 disingenuous for Defendant to now challenge the legitimacy of Mr. Bowie’s religious  
13 beliefs in its Motion given that Defendant had initially *approved* Mr. Bowie’s  
14 religious exemption request.

15 After approving his exemption request, Defendant later requested additional  
16 information from Defendant regarding his religious beliefs. Complaint, ¶ 34.  
17 Defendant makes vague assertions that Mr. Bowie did not “adequately” respond to  
18 Defendant’s follow-up questions. Mot at 9. This argument is inappropriate at this  
19 stage of proceedings given that the Court is required to accept the plaintiff’s  
20 allegations of material fact as true and to construe them in a light most favorable to  
21 plaintiff. *Wylor Summit P’ship*, 135 F.3d at 661. However, Mr. Bowie clearly  
22 indicated in his follow-up responses that his objection to the COVID-19 vaccine was  
23 rooted in his belief that his body is a temple of the Holy Spirit which would prevent  
24 him from receiving the COVID-19 vaccine. Complaint, ¶ 35; Strauss Decl., Exh. C at  
25 p. 5. He also noted that he has refused the flu vaccine on the same religious basis, but  
26 he informed Defendant that he has not needed to request a religious exemption from  
27 the flu vaccine because there has not previously been a flu vaccine mandate. *Id.*

28 Defendant emphasizes Plaintiff’s allegation that it is a “personal decision,” but

1 Plaintiff does not cast a blanket objection based upon his “personal” preferences.  
2 While it does not seem appropriate to provide a theology lesson on the tenants of Mr.  
3 Bowie’s religious beliefs, his “personal decision” is guided by the “convictions of the  
4 Holy Spirit and the Holy Bible,” not his personal whims. Mot. at 12, n.2; Complaint,  
5 ¶ 20. While Defendant may not understand the religious underpinnings of Mr.  
6 Bowie’s beliefs, Defendant’s understanding of the belief is not the legal standard. *See*  
7 *Thomas v. Review Bd.*, 450 U.S. 707, 714 (1981) (“[T]he resolution of [whether a  
8 belief is religious] is not to turn upon a judicial perception of the particular belief or  
9 practice in question . . . .”); *Keene*, 2023 WL 3451687, at \*2 (“A religious belief need  
10 not be consistent or rational to be protected under Title VII, and an assertion of a  
11 sincere religious belief is generally accepted.”). Rather, Mr. Bowie need only show  
12 that his objection to the Vaccine Mandate is based upon his religious beliefs and those  
13 beliefs are in conflict with an employer policy. *Bolden-Hardge*, 63 F.4th at 1222.  
14 Defendant’s Motion fundamentally misunderstands the scope and breadth of Mr.  
15 Bowie’s religious beliefs which is why it is not appropriate for an employer, nor a  
16 court, to attempt to question an individual’s religious beliefs—they are simply not fit  
17 for such a purpose. *Doe v. San Diego Unified Sch. Dist.*, 19 F.4th 1173, 1176 n.3 (9th  
18 Cir. 2021) (The court may not “question the legitimacy of [an individual’s] religious  
19 beliefs regarding COVID-19 vaccinations.”); *Bordeaux v. Lions Gate Ent., Inc.*, No.  
20 222CV04244SVWPLA, 2023 WL 8108655, at \*8 (C.D. Cal. Nov. 21, 2023) (“Put in  
21 stronger terms, ‘[a] court should generally accept the assertion of a sincerely held  
22 religious belief.’”).

23       **2. Mr. Bowie’s exemption request established a conflict with**  
24       **Defendant’s Vaccine Mandate.**

25       It is disingenuous for Defendant to argue that Mr. Bowie did not “adequately  
26 inform[] [Defendant] of any conflict between his alleged beliefs and the [Vaccine  
27 Mandate]” (Mot. at 15), considering Mr. Bowie completed and *submitted* the vaccine  
28 exemption form identifying his religious objections to Defendant *and* Defendant

1 approved the exemption form (Strauss Decl., Ex. A at 1).<sup>2</sup> Defendant’s argument that  
2 Mr. Bowie did not establish a conflict with Defendant’s Vaccine Mandate is belied  
3 by the fact that Defendant originally approved Mr. Bowie’s religious exemption  
4 request. Strauss Decl., Ex. B. Had Mr. Bowie not informed Defendant of his religious  
5 objection to the Vaccine Mandate, there would have been no exemption request for  
6 Defendant to have initially approved in the first place. As represented in his  
7 Complaint, Mr. Bowie’s objection to receiving the vaccine was due to his belief,  
8 rooted in 1 Corinthians 6:19-20, that his body is a temple of the Holy Spirit, that his  
9 body is not his own, and that what he puts in his body is a decision between him and  
10 God. Complaint, ¶¶ 18-20.

11 Defendant relies on numerous, unreported cases from other district courts to  
12 support its assertion that Mr. Bowie’s “body temple” beliefs do not conflict with the  
13 Vaccine Mandate, but Defendant’s reliance on these cases is misplaced. For instance,  
14 Defendant cherry-picks the following quote from one court: “[A] religious belief that  
15 the body is a temple of God is not in itself inconsistent with receiving a vaccine . . .  
16 Many people hold that belief without also believing that receiving a vaccine defiles  
17 the body.” Mot. at 15 (citing *Petermann*, 2023 WL 2662899, at \*2). The *Petermann*  
18 court was not implying that the religious belief that the body is a temple of God can  
19 *never* be in conflict with a vaccine policy. The context of the *Petermann* court’s  
20 statement is critical and shows that the Defendant’s reliance on it is misguided.  
21 *Petermann* submitted a COVID-19 religious exemption request to her employer’s  
22 COVID-19 vaccine mandate. *Id.*, at \*1. Her exemption request stated that she  
23 discerned “through prayer and study of Scripture, that her body is a Temple of God,”  
24 and that it would violate her conscience to receive the COVID-19 vaccine. *Id.* Her  
25 employer approved her exemption request based upon her religious belief that her  
26

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27  
28 <sup>2</sup> An employee need not inform his employer of the belief and conduct as Title VII “does not impose a knowledge requirement” on employers. *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 773 (2015).

1 body is a “Temple of God.” *Id.* At the same time her employer granted her religious  
2 exemption request, her employer also told Petermann that she would be required, as  
3 part of her job, to administer vaccine booster shots for COVID-19. *Id.* Petermann  
4 refused to administer the shots on the same basis as provided in her religious  
5 exemption—the body is a Temple of God. *Id.* Her employer denied this second  
6 religious exemption request, and subsequently terminated her employment. *Id.* The  
7 court agreed with Petermann’s employer noting that “Petermann’s complaint doesn’t  
8 identify a religious objection to administering the vaccine,. . . She didn’t give a  
9 religious reason (or any reason, really) why she couldn’t administer the vaccine to  
10 others.” *Id.*, at \*3. “Her belief that her body is a temple wouldn’t preclude her from  
11 giving shots to patients who want to receive them.” *Id.* The court granted the  
12 employer’s motion to dismiss, not because of Petermann’s “body temple” objection  
13 to *receiving* the COVID-19 vaccine, because her “body temple” objection to  
14 *administering* the COVID-19 vaccine to others did not adequately state a religious  
15 objection in conflict with an employer policy.

16 Defendant seemingly relied on the initial cherry-picked quote from *Petermann*  
17 to argue that many people could hold the belief that their bodies are temples of the  
18 Holy Spirit without also believing that receiving a vaccine defiles the body (Mot. at  
19 15), but this reasoning only seeks to question the sincerity of Mr. Bowie’s religious  
20 beliefs. Mr. Bowie clearly understood receiving the COVID-19 vaccine to be a  
21 violation of his belief that his body is a temple of the Holy Spirit—even going to the  
22 extent of facing termination of his job so as to not violate his religious beliefs.  
23 Defendant asks this Court to accept its skewed understanding of Mr. Bowie’s religious  
24 beliefs, but that is certainly not appropriate at this stage of the proceedings when the  
25 Court is required to accept plaintiff’s allegations as true. *Wylter Summit P’ship*, 135  
26 F.3d at 661.

27 Defendant also misrepresents the court’s analysis of the “body temple” belief in  
28 *Berna v. Bayhealth Med. Ctr., Inc.*, No. 1:23-cv-00945-RGA, 2024 WL 456420 (D.

1 Del. Feb. 5, 2024), arguing that there is no information regarding how the “body  
2 temple” belief prohibits an individual from receiving the COVID-19 vaccine. Mot. at  
3 15-16. In *Berna*, the court reviewed Berna’s exemption form which stated, “[M]y  
4 body is a temple of the Holy Spirit, gifted to me by the death of my savior, who died  
5 in my place for the forgiveness of my sins.” *Berna*, 2024 WL 456420 at \*6. The *Berna*  
6 court held that Berna’s complaint did not plausibly allege that her “objection to  
7 receiving the COVID-19 vaccine was based on a sincerely held religious belief”  
8 because she “provides no information regarding how this ‘Body is a Temple’ belief  
9 prohibits her from receiving COVID-19 vaccine. *Id.*

10 Unlike in *Berna*, Mr. Bowie did articulate how his belief that his body is a  
11 temple of the Holy Spirit prohibits him from receiving the COVID-19 vaccine. He  
12 twice informed Defendant that because his body is a temple of the Holy Spirit, his  
13 body is not his own, and, as such, what he puts into his body is a decision between  
14 him and God guided by the Holy Spirit and the Bible. Because of these beliefs, he  
15 could not receive the COVID-19 vaccine. Complaint, ¶¶ 18-20. Mr. Bowie provides  
16 more context and information than Berna who simply asserted that her body is a  
17 temple of the Holy Spirit.

18 Defendant quotes another court, but again fails to provide any context for the  
19 quote. Mot. at 16. Defendant quotes *Griffin v. Massachusetts Dep’t of Revenue*, No.  
20 1:22-cv-11991-FDS, 2023 WL 4685942 (D. Mass. July 20, 2023): “Plaintiff does not  
21 describe her religious beliefs or principles in any meaningful way, or how they relate  
22 to vaccines generally, or the COVID-19 vaccine specifically. Put another way, she  
23 does not allege that her religion requires her to observe certain medical limitations  
24 that include a refusal to take vaccines, or certain types of vaccines.” *Id.*, at \*7.  
25 However, Defendant omits that Griffin’s exemption request “consisted solely of the  
26 following statement: ‘I have a sincerely held religious belief that I should not receive  
27 the COVID-19 vaccine.’” *Id.*, at \*6; *cf. Keene*, 2023 WL 3451687, at \*2 (“[A]n  
28 assertion of a sincere religious belief is generally accepted.”). Unlike Griffin,

1 Defendant stated his specific religious beliefs that prevented him from receiving the  
2 COVID-19 vaccine. Complaint, ¶¶ 18-20.

3 Similarly, Defendant’s reliance on *Stone v. Lenovo (United States), Inc.*, No.  
4 6:22-cv-06548-FPG, 2024 WL 356571, at \*6 (W.D.N.Y. Jan. 31, 2024) is misplaced.  
5 Mot. at 16-17. The court reviewed Stone’s “broad, generalized beliefs” that his  
6 employer’s COVID-19 vaccination requirement was a “‘draconian’ ‘corporate  
7 intrusion’ that violated notions of human dignity central to Catholic faith because it  
8 threatened termination of employment.” *Stone*, 2024 WL 356571 at \*6. While the  
9 court did not doubt Stone’s beliefs, the court held his beliefs did not conflict with his  
10 employer’s vaccination policy because the “policy expressly provided alternatives to  
11 employees who do not wish to be vaccinated.” *Id.* Here, Mr. Bowie did not raise a  
12 “broad, generalized belief” concerning Defendant’s vaccination policy. Rather, Mr.  
13 Bowie followed the means to raise objections to him receiving the COVID-19 vaccine  
14 (i.e., completing an exemption request form), stated his religious beliefs (i.e., His  
15 body is a temple of the Holy Spirit; His body is not his own; and what he puts in his  
16 body is a decision between him and his God), and submitted the form to his employer.  
17 Complaint, ¶¶ 18-20, 31. And Defendant initially granted his exemption request. *Id.*,  
18 ¶ 33.

19 *Mullen v. AstraZeneca Pharms., LP*, No. 2:23-cv-03903-JMY, 2023 WL  
20 8651411, at \*3 (E.D. Pa. Dec. 14, 2023) is also distinguishable. *See* Mot. at 16. Mullen  
21 requested an exemption from his employer’s COVID-19 vaccine mandate on the basis  
22 that “[a]fter much time spent praying about this, it is [his] deeply and sincerely held  
23 religious belief that God will and has protected me in the area of covid.” *Mullen*, 2023  
24 WL 8651411 at \*1. Mullen repeated similar answers throughout his exemption  
25 request form, explaining that whenever he has “major questions [he] always put[s]  
26 them before God and trust that he knows what is best for [him] and will lead [him] to  
27 the right answer.” *Id.* The court held that Mullen did not identify a religious belief  
28 that prevented his taking the vaccine. *Id.*, at \*4. Unlike Mullen, Mr. Bowie provided

1 much more substantive responses indicating that he could not receive the COVID-19  
2 vaccine because of his religious beliefs that his body is a temple of the Holy Spirit,  
3 his body is not his own, and as such, what he puts into his body is a decision between  
4 him and God. Complaint, ¶¶ 18-20. Together, these beliefs formed the basis of his  
5 inability to receive the COVID-19 vaccine.

6 To the extent that Defendant argues that Mr. Bowie refused to substantively  
7 respond to Defendant’s follow-up question, this allegation is belied by the factual  
8 record thus far, and again, not an appropriate argument at this stage of the  
9 proceedings. Mot. at 16 n.3. While Defendant may be dissatisfied with Mr. Bowie’s  
10 answers, he was as responsive as he could in light of the overbroad nature of  
11 Defendant’s supplemental questions. Defendant takes issue with the fact that Mr.  
12 Bowie did not provide a list of other substances that Mr. Bowie refused to put into his  
13 body as a result of his religious belief. *Id.* However, Mr. Bowie noted in his response  
14 that he refuses the flu vaccine. Strausse Decl., Exh. C at 5. Defendant argues that  
15 “there is absolutely nothing in Plaintiff’s initial exemption request or in Plaintiff’s  
16 response to KFHP’s request for supplemental information that actually conveyed to  
17 KFHP the nature of any conflict between Plaintiff’s alleged beliefs and the Policy.”  
18 Mot. 17. Yet, the Complaint and the documents Defendant incorporates by reference  
19 identify his religious beliefs: (1) Mr. Bowie’s body is a temple of the Holy Spirit; (2)  
20 his body is not his own; and (3) because his body is a temple of the Holy Spirit, what  
21 he puts in his body is a decision between him and his God. Complaint, ¶¶ 18-20, 31-  
22 35; Strausse Decl., Exh. A, C. Because of these beliefs, Mr. Bowie could not receive  
23 the COVID-19 vaccine. As such, he submitted a religious exemption request to  
24 Defendant’s Vaccine Mandate. Complaint, ¶ 31. Defendant’s reasoning is  
25 nonsensical. Defendant’s arguments would make Mr. Bowie—and any employee—  
26 to guess at what wording might satisfy Defendant’s religious test. By stating his  
27 religious beliefs and submitting a *completed* form titled “COVID-19 Vaccination  
28 Exemption,” Mr. Bowie clearly notified Defendant of his religious objection to the

1 Vaccine Mandate. Complaint, ¶¶ 18-20, 31-35; Strausse Decl., Exh. A, C.

2 **B. Mr. Bowie alleges facts demonstrating differing treatment of other**  
3 **similarly situated individuals.**

4 To establish a prima facie case for a disparate treatment claim, plaintiff must  
5 show “(1) he is a member of a protected class; (2) he was qualified for his position;  
6 (3) he experienced an adverse employment action; and (4) similarly situated  
7 individuals outside his protected class were treated more favorably, or other  
8 circumstances surrounding the adverse employment action give rise to an inference  
9 of discrimination.” *Peterson v. Hewlett-Packard Co.*, 358 F.3d 599, 603 (9th Cir.  
10 2004). Defendant moves to dismiss the First Cause of Action for disparate treatment  
11 because it alleges that Mr. Bowie failed to allege specific facts establishing that he  
12 was treated differently than similarly situated persons outside his protected class,  
13 Defendant’s discriminatory intent, or Defendant’s termination of his employment was  
14 a pretext. Mot. at 17-20.

15 Mr. Bowie alleges that he is a member of a protected class (Complaint, ¶ 16),  
16 that he was qualified for his position (*Id.*, ¶¶ 21-26), and that he suffered an adverse  
17 employment action, i.e., termination (*Id.*, ¶¶ 37, 41, 46-49, 60). As to the fourth  
18 element, which Defendant seems to allege is not satisfied in Mr. Bowie’s Complaint  
19 (Mot. at 18-20), Mr. Bowie “present[ed] statistical data which gives rise to a plausible  
20 inference of a religious discriminatory motive.” *Camp v. L.A. Arena Co., LLC*, No.  
21 EDCV222220JGBKKX, 2023 WL 4680797, at \*6 (C.D. Cal. June 15, 2023). Mr.  
22 Bowie provided statistical data indicating that Defendant had safely accommodated  
23 approximately 2/3 of the 16,000+ religious accommodation requests it received.  
24 Complaint, ¶ 50. Mr. Bowie also alleged that other employees received  
25 accommodations from the Vaccine Mandate by being permitted to undergo symptom  
26 screening, regular testing, or wearing a face covering. *Id.*, ¶ 55. Further, evidence of  
27 Defendant’s discriminatory treatment of Mr. Bowie is demonstrated throughout Mr.  
28 Bowie’s Complaint in his allegations wherein he alleges that Defendant revoked

1 access to his email *after* it had initially approved Mr. Bowie’s religious exemption  
2 request (*Id.*, ¶ 69), Defendant accommodated other employees (*Id.*, ¶ 70), and  
3 Defendant terminated Mr. Bowie while providing accommodations for other  
4 employees (*Id.*, ¶ 71). Mr. Bowie also alleges that Defendant discriminated against  
5 Mr. Bowie when it questioned the sincerity of his religious beliefs despite lacking any  
6 legitimate basis for questioning his beliefs. *Id.*, ¶ 72. That Defendant did not  
7 accommodate Mr. Bowie and nearly 6,000 other religious accommodation requests  
8 “raises an inference of religious discrimination.” *Camp*, 2023 WL 4680797, at \*6.  
9 Though this fact alone might not “constitute proof that Defendant[] discriminated  
10 against [Mr. Bowie] because of his religion, it is sufficient at the pleading stage” to  
11 give Defendant fair notice of the claim. *Id.*

12 **C. Mr. Bowie alleges facts establishing a causal link between Mr. Bowie’s**  
13 **exemption request and Defendant’s termination of his employment.**

14 Defendant argues that Mr. Bowie’s Third and Fourth Causes of Action for  
15 retaliation must be dismissed because the Complaint does not establish a causal  
16 relationship between a protective activity and an adverse employment action. Mot. at  
17 20. However, Mr. Bowie’s religious beliefs were “one but-for cause or a motivating  
18 factor in Defendant’s decision to terminate his employment.” *Camp*, 2023 WL  
19 4680797, at \*6. Mr. Bowie alleges facts demonstrating that following the submission  
20 of his initial religious exemption request, Defendant approved his request. Complaint,  
21 ¶ 33. It was only *after* Defendant reneged on its approval of Mr. Bowie’s exemption  
22 request that Defendant withdrew Mr. Bowie’s access to the computer systems, denied  
23 his religious exemption request, and then terminated his employment. Complaint, ¶¶  
24 37-42, 44, 59-60. “Given that [Mr. Bowie’s] religion could have been one but-for  
25 cause of his adverse employment action, this is sufficient to establish causation to  
26 survive a motion to dismiss.” *Camp*, 2023 WL 4680797, at \*6; *see Univ. of Texas Sw.*  
27 *Med. Ctr. v. Nassar*, 570 U.S. 338, 343 (2013) (“It suffices instead to show that the  
28 motive to discriminate was one of the employer’s motives, even if the employer also

1 had other, lawful motives that were causative in the employer's decision.”).

2 **D. In the Alternative, Leave To Amend Should Be Granted.**

3 Leave to amend “shall be freely given when justice so requires.” Fed. R. Civ.  
4 P. 15(a). This policy is “to be applied with extreme liberality.” *Owens v. Kaiser*  
5 *Foundation Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (cleaned up). Thus,  
6 leave to amend is freely given to a party unless the opposing party can establish “bad  
7 faith, undue delay, prejudice to the opposing party, and/or futility.” *Id.* Here, as set  
8 forth herein, Mr. Bowie has plausibly pled his failure to accommodate, disparate  
9 treatment, and retaliation claims, and Defendant’s Motion should be denied.  
10 However, if it is necessary for Mr. Bowie to amend his Complaint, Defendant is  
11 unable to establish that Mr. Bowie has acted in bad faith, with undue delay, that it is  
12 prejudiced in any way, or it is futile to allow him to amend his Complaint if that  
13 becomes an issue before the Court. Mr. Bowie could demonstrate with more  
14 particularity the extent of his religious beliefs and differing treatment of other  
15 similarly situated individuals.

16 **V. CONCLUSION**

17 For these reasons, Richard Bowie respectfully requests that this Court deny  
18 Defendant’s motion to dismiss, or in the alternative, grant leave to amend.

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DATED: May 8, 2024

ADVOCATES FOR FAITH & FREEDOM

By: /s/ Julianne Fleischer  
Julianne Fleischer  
Attorney for **Plaintiff**