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COUNTY OF SANTA CLARA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
(San José Division)

ANNIE AHN, et al.,

Plaintiffs,

v.

SANTA CLARA COUNTY,

Defendants.

No. 25CV06980 PCP

DEFENDANT COUNTY OF SANTA CLARA'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFFS' COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

Date: December 11, 2025
Time: 10:00 a.m.
Crtrm.: 8, 4th Floor
Judge: The Honorable P. Casey Pitts

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on **December 11, 2025** at **10:00 a.m.** or as soon thereafter as the matter may be heard before Judge P. Casey Pitts in Courtroom 8, 4th Floor located at 280 S. First Street, San José, CA, Defendant County of Santa Clara ("Defendant") will and hereby do move the Court pursuant to Federal Rule of Civil Procedure 12(b)(6) for an Order dismissing all causes of action in the Complaint filed by Plaintiffs Annie Ahn, Jorge Alvarez, Lawanda Avila, Coorina Ayala, Brandon Boyer, Shirley Childs, Lananh D'amour, Megan Dedios, Sinora Freeland, Jeremy Garvin, Lourdes Gomez, Lydia Gonzales-Murphy, Andrew Hardy, Danele Howard, William Kozich, Brandon Lim, Rashaad Malvo, Brian Miller, Rustyn Mooney, Duane Moten, Suzanne Nichols, Carlos Padilla, Brenda Perez, Timothy Perry, Prabhakar Isaac, Dale Nelson, Aristides Pulido, Christina Rodriguez, Roxana Ruano, Arnulfo Sanchez, Adam Valle, Brandi Villegas, and Martha-Kathleen Volle ("Plaintiffs").

RELIEF SOUGHT

The County moves to dismiss Plaintiffs' Complaint on the basis that Plaintiffs have failed to state a claim showing that they are entitled to relief. *See* Fed. R. Civ. P. 8(a)(2).

Dated: October 17, 2025

Respectfully submitted,

TONY LOPRESTI
County Counsel

By: */s/ Nathan A. Greenblatt*
NATHAN A. GREENBLATT
Deputy County Counsel

Attorneys for Defendant
COUNTY OF SANTA CLARA

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I. INTRODUCTION

In this case, 33 Plaintiffs who objected to getting vaccinated at the height of the deadly COVID-19 pandemic allege that the County of Santa Clara ("County") should have allowed them to continue working unvaccinated in high-risk settings, such as hospitals, or should have otherwise made different decisions about how to respond to an unprecedented public health emergency.

Plaintiffs' allege that the County violated the Free Exercise Clause of the Constitution, Title VII, California's Fair Employment and Housing Act ("FEHA"), and *Monell v. Department of Social Services*, 436 U.S. 658 (1978). The Court should dismiss all of the claims, for four reasons.

First, Plaintiffs' have failed to plead that they have bona fide religious beliefs that conflicted with the County's vaccination requirement. Plaintiffs merely assert, in conclusory fashion, that they have such beliefs. But Plaintiffs allege no facts *at all* in the Complaint about what those beliefs are, or how the beliefs conflict with vaccination against COVID-19. Plaintiffs' conclusory assertions are insufficient under well-established law to plead a Title VII or FEHA claim.

Second, Plaintiffs' Free Exercise Clause claim is deficient for essentially the same reason. To plead a violation of the Free Exercise Clause, a Plaintiff must identify a governmental practice that substantially burdens a sincerely held religious belief, rather than secular concerns. Plaintiffs' conclusory assertions about their religious beliefs in the Complaint fail to meet this standard. Because no constitutional violation has been pled, Plaintiffs' *Monell* claim falls as well.

Third, the County is immune from Plaintiffs' state-law FEHA claim. California Government Code section 855.4 gives the County immunity from liability to make decisions "to perform or not to perform any act to promote the public health of the community by preventing disease . . . ." This immunity squarely applies, in full force, to the County's decisions about how best to respond to the unprecedented COVID-19 pandemic. Plaintiffs' attempt to second-guess the County's decisions, which saved countless lives, is improper, as doing so would impinge on the County's expertise and decision-making authority entrusted to it by the State Legislature.

Finally, nine of the 33 Plaintiffs have failed to properly exhaust their administrative remedies before suing. Exhaustion is a statutory precondition to filing suit. Plaintiffs had ample time to comply with their exhaustion requirements—they had 300 days provided by statute, plus an extra

1002 days due to tolling during a class-action lawsuit in which Plaintiffs participated as class members. Despite having almost three extra years to file the statutorily-required administrative complaints, nine Plaintiffs still missed the applicable deadline. Dismissal on this basis is straightforward and mandatory.

Accordingly, the Court should apply well-established law and dismiss the Complaint.

II. FACTUAL BACKGROUND

This lawsuit stems from the deadly COVID-19 pandemic. Between March 2020 and June 2023, "the Centers for Disease Control and Prevention has reported over 1.1 million deaths from the virus in the United States alone, while millions of others suffered from the direct and indirect effects of the virus." *Seaplane Adventures, LLC v. Cnty. of Marin*, 71 F.4th 724, 726 (9th Cir. 2023). "Although they varied in their responses, different levels of government operated in distinct, yet interlocked fashion to address this drastic challenge facing our nation and world." *Id.*

The County, like other governmental bodies, mobilized at the onset of the pandemic to limit the spread of COVID-19 and protect its vulnerable residents. *Id.*; Compl. ¶¶ 2-3. Among other emergency measures, the County ordered in August 2021 that its employees in high-risk settings get the COVID-19 vaccine and boosters. Compl. ¶ 5 & Ex. C.

The 33 Plaintiffs in this lawsuit objected to doing so. *Id.* ¶ 7. Plaintiffs maintain that their "religious beliefs prevent them from taking the COVID-19 vaccine or boosters." *Id.* Plaintiffs provide no further detail about their religious beliefs in the Complaint. The County granted Plaintiffs exemptions to the vaccination requirement, but informed Plaintiffs that due to the high-risk nature of their jobs, such as nurses working with vulnerable hospital patients, that Plaintiffs would be placed on administrative leave. *Id.* ¶¶ 7, 9, 15-16, 20-23, 26, 29, 41. Plaintiffs allege that the County should not have placed them on administrative leave. Alternatively, Plaintiffs allege that the County should have allowed them to continue working unvaccinated with different precautions such as masking and testing, or should have allowed them to telework or transfer to lower risk jobs. *Id.* ¶¶ 7-41. Plaintiffs claim that they exhausted their administrative remedies before suing the County. They attach "true and correct copies of" their Equal Employment Opportunity Commission ("EEOC") right to sue notices as Exhibit A to the Complaint. *Id.* ¶ 9.

Before suing the County in this lawsuit, Plaintiffs were class members in a different lawsuit—*UnifySCC v. Cody*, No. 5:22-cv-01019-BLF. *Id.* ¶ 76. The *UnifySCC* lawsuit is ongoing, although it is no longer proceeding as a class action. Trial is scheduled for May 2026 for the three remaining named plaintiffs in that case.

III. LEGAL STANDARD

Federal Rule of Civil Procedure 8(a)(2) requires a complaint to include a "short and plain statement of the claim showing that the pleader is entitled to relief." If the complaint does not do so, the defendant may move to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). Dismissal is required if the plaintiff fails to allege facts allowing the court to "draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). "Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008). To survive a Rule 12(b)(6) motion, a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

In considering a Rule 12(b)(6) motion, the Court must "accept all factual allegations in the complaint as true and construe the pleadings in the light most favorable" to the non-moving party. *Rowe v. Educ. Credit Mgmt. Corp.*, 559 F.3d 1028, 1029–30 (9th Cir. 2009). While legal conclusions "can provide the [complaint's] framework," the Court will not assume they are correct unless adequately "supported by factual allegations." *Iqbal*, 556 U.S. at 679. Courts do not "accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences." *In re Gilead Scis. Secs. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008) (quoting *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001)).

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IV. ARGUMENT

A. THE COURT SHOULD DISMISS PLAINTIFFS' TITLE VII AND FEHA CLAIMS, BECAUSE PLAINTIFFS FAIL TO PLEAD THAT THEY HAD BONA FIDE RELIGIOUS BELIEFS THAT CONFLICTED WITH THE COUNTY'S VACCINATION REQUIREMENT

Title VII and FEHA make it unlawful for an employer to discriminate against an individual based on her religion. 42 U.S.C. § 2000e-2; Cal. Gov't Code § 12940(a). Employers are required to accommodate employees' religious beliefs unless doing so would impose an undue hardship. 42 U.S.C. § 2000e(j); Cal. Gov't Code § 12940(l).

Claims of failure to accommodate a religious objection are analyzed under a burden-shifting framework. *Detwiler v. Mid-Columbia Medical Ctr.*, __ F.4th __, No. 23-3710, 2025 WL 2700000 at *5 (9th Cir. Sept. 23, 2025). The plaintiff must first plead a prima facie case of failure to accommodate her religion. *Id.* If the plaintiff meets her burden, the employer must show it was nonetheless justified in refusing to accommodate. A plaintiff can meet her prima facie burden by demonstrating "(1) [s]he had a bona fide religious belief, the practice of which conflicted with an employment duty; (2) [s]he informed [her] employer of the belief and conflict; and (3) the employer threatened [her] with or subjected [her] to discriminatory treatment, including discharge, because of [her] inability to fulfill the job requirements." *Id.* (quoting *Heller v. EBB Auto Co.*, 8 F.3d 1433, 1438 (9th Cir. 1993)). If an employee seeks an accommodation, she must plead facts sufficient to show the accommodation request also springs from a bona fide religious belief. *Id.*

In *Detwiler*, the Ninth Circuit sustained the district court's dismissal of Title VII and equivalent state law claims for failure to accommodate the plaintiff's religious beliefs, because the plaintiff did not adequately plead a bona fide religious belief that conflicted with the employer's COVID-19 testing requirement. The plaintiff pled that her religious beliefs conflicted with inserting a cotton swab dipped in ethylene oxide (EtO) into her nostril, because she found "multiple sources indicating that EtO is a carcinogenic substance," and she had a "Christian duty to protect my body as the temple of the Holy Spirit" from harmful substances. *Id.* at *7-8. The court held that those allegations were insufficient, because "[u]ltimately, Detwiler's objection to testing is grounded in the secular belief that the nasal swabs in antigen tests are carcinogenic." *Id.* at 25. The court explained

that:

> A plaintiff seeking a religious exemption must plead a sufficient nexus between her religion and the specific belief in conflict with the work requirement. To survive a motion to dismiss, a plaintiff need not establish her belief is consistent, widely held, or even rational. However, a complaint must connect the requested exemption with a truly religious principle. Invocations of broad, religious tenets cannot, on their own, convert a secular preference into a religious conviction.

Id. at 15.

Here, Plaintiffs fall far short of complying with the *Detwiler* standard. Plaintiffs plead no facts *at all* about their religious beliefs. Plaintiffs allege only that they "hold[] sincere religious beliefs that prevent [them] from receiving the COVID-19 vaccine and boosters." *See* Compl. ¶¶ 9-41. These allegations merely recite the elements of the cause of action, without articulating the religious beliefs or how those beliefs conflicted with the vaccination requirement, and without connecting the requested exemption with a truly religious principle. That is insufficient. *Detwiler*, 2025 WL 2700000 at *5 ("However, a court is not required to accept as true legal conclusions couched as factual allegations."); *Iqbal*, 556 U.S. at 678, 129 S.Ct. 1937 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). By comparison, in *Detwiler*, the plaintiff pled numerous facts about her religious beliefs, including that she prayed and "asked for God for direction regarding the current COVID testing requirement," "the Holy Spirit has moved on my heart and conscience that I must not participate in COVID testing that causes harm," and she had a "Christian duty to protect my body as the temple of the Holy Spirit" from harmful substances. 2025 WL 2700000 at *3. But the Ninth Circuit found those averments, which are far more substantive than the conclusory allegations here, insufficient.

Accordingly, the Court should dismiss Plaintiffs' Title VII and FEHA claims due to this pleading failure.

B. THE COURT SHOULD DISMISS PLAINTIFFS' FREE EXERCISE AND *MONELL* CLAIMS, BECAUSE PLAINTIFFS HAVE FAILED TO PLEAD THAT THEY HAD SINCERE RELIGIOUS BELIEFS THAT CONFLICTED WITH THE COUNTY'S VACCINATION REQUIREMENT

The Court should dismiss Plaintiffs' free exercise and *Monell* claims for essentially the same reason as it should dismiss the Title VII and FEHA claims.

To plead a free exercise claim, a plaintiff must show that "a government entity has burdened his sincere religious practice pursuant to a policy that is not 'neutral' or 'generally applicable.'" *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 525 (2022). The burden must be "substantial." *Jones v. Williams*, 791 F.3d 1023, 1031 (9th Cir. 2015). "A substantial burden . . . place[s] more than an inconvenience on religious exercise; it must have a tendency to coerce individuals into acting contrary to their religious beliefs or exert substantial pressure on an adherent to modify his behavior and to violate his beliefs." *Id.* at 1031-32 (quoting *Ohno v. Yasuma*, 723 F.3d 984, 1011 (9th Cir. 2013)) (alterations in original). Moreover, "[t]o merit protection under the free exercise clause of the First Amendment, a religious claim must "be sincerely held," and "the claim must be rooted in religious belief, not in 'purely secular' philosophical concerns." *Malik v. Brown*, 16 F.3d 330, 333 (9th Cir. 1994) (citations omitted). "Determining whether a claim is 'rooted in religious belief' requires analyzing whether the plaintiff's claim is related to his sincerely held religious belief." *Id.*

Therefore, the Free Exercise Clause has similar pleading requirements as Title VII and FEHA—in each case, a plaintiff must plead that he or she has sincerely held religious beliefs, and that those beliefs conflicted with a governmental policy. *See, e.g., Babcock v. Clarke*, 373 F. App'x 720, 721 (9th Cir. 2010) (affirming summary judgment on Free Exercise claim because plaintiff "points to no particular religious observance that requires him to go by the name 'Ms. Sarah.' Nor does he point to any religion or religious belief that mandated his name change."); *Sefeldeen v. Alameida*, 238 F. App'x 204, 206 (9th Cir. 2007) (finding that a Muslim inmate's religious exercise was not substantially burdened when he complained only of the perceived nutritional inadequacy of the vegetarian diet but did not allege that eating vegetarian meals violated his religious beliefs); *Gumienny v. McDowell*, No. EDCV1701592JFWRAO, 2018 WL 6113084, at *5 (C.D. Cal. May 25, 2018) (similar); *Hill v. Bonnifield*, No. 2:19-CV-08989-MWF-JC, 2024 WL 647410, at *7 (C.D. Cal. Jan. 3, 2024), *report and recommendation adopted in part*, No. CV 19-8989-MWF(JC), 2024 WL 1619276 (C.D. Cal. Apr. 12, 2024) (similar).

But here, Plaintiffs plead no facts at all about their religious beliefs. Plaintiffs allege only that they "hold[] sincere religious beliefs that prevent [them] from receiving the COVID-19 vaccine

and boosters." *See* Compl. ¶¶ 9-41. These allegations merely recite the elements of the cause of action, without pleading facts setting forth the religious beliefs, showing that those beliefs were sincerely held and rooted in religion, or how vaccination would substantially burden those beliefs. That is insufficient. *Malik*, 16 F.3d at 333; *Iqbal*, 556 U.S. at 678, 129 S.Ct. 1937 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.").

Courts have rejected free exercise claims in similar cases. *See, e.g.*, *White v. Davenport*, No. 8:23-CV-02300-HDV-MAA, 2024 WL 1329780, at *5 (C.D. Cal. Mar. 26, 2024) (dismissing free exercise claim based on religious exemption to L.A. County vaccine policy, where "the Complaint does not contain sufficient factual allegations from which it reasonably could be inferred that Plaintiff's (unspecified) religious beliefs are both sincerely held and rooted in religious belief. Rather, the Complaint includes only conclusory allegations that Defendants' actions violated her right to freedom of religion, which does not suffice."); *George v. Grossmont Cuyamaca Cmty. Coll. Dist. Bd. of Governors*, No. 22-CV-0424-BAS-DDL, 2022 WL 16722357, at *6 (S.D. Cal. Nov. 4, 2022) (finding that "[t]he Complaint is otherwise devoid of any facts from which this Court could infer a free exercise claim against the masking and testing components of the CCDs' Vaccine Requirements"). The Court should do likewise here.

Because Plaintiffs have failed to properly plead that a constitutional violation occurred, their *Monell* claim should be dismissed as well. *See Yousefian v. City of Glendale*, 779 F.3d 1010, 1016 (9th Cir. 2015) ("Because no constitutional violation occurred, there can be no *Monell* liability on the part of the City of Glendale."); *Cheairs v. City of Seattle*, 145 F.4th 1233, 1247 (9th Cir. 2025) (stating that "[l]ocal government units may be held responsible under Section 1983 when they maintain a policy or custom that causes the constitutional violation at issue. But without a constitutional claim that can survive summary judgment, the district court correctly ruled that Cheairs cannot establish *Monell* liability.") (citation omitted).

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C. THE COURT SHOULD DISMISS PLAINTIFFS' FEHA CLAIM, BECAUSE THE COUNTY IS IMMUNE FROM IT

The Court should also dismiss Plaintiffs' FEHA claim, because the County is immune from liability for governmental decisions to promote the public health, pursuant to California Government Code section 855.4.

Section 855.4 is part of the Government Claims Act (§ 810 et seq.). The Act's "purpose is 'assur[ing] . . . judicial abstention in areas in which the responsibility for basic policy decisions has been committed to coordinate branches of government[,]' because '[a]ny wider judicial review . . . would place the court in the unseemly position of determining the propriety of decisions expressly entrusted to a coordinate branch of government.'" *Greenwood v. City of Los Angeles*, 89 Cal.App.5th 851, 863 (2023) (quoting *Johnson v. State of California*, 69 Cal.2d 782, 790 (1968)). The Act "'establishes the basic rules that public entities are immune from [noncontractual] liability except as provided by statute (§ 815, subd. (a)), [and] that public employees are liable for their torts except as otherwise provided by statute (§ 820, subd. (a)).'" *Greenwood,* 89 Cal.App.5th at 857–858. Section 855.4 "provides one such exception to a public entity's liability under . . . any other statute[]." *Id*. at p. 858. It provides in full:

> (a) Neither a public entity nor a public employee is liable for an injury resulting from the decision to perform or not to perform any act to promote the public health of the community by preventing disease or controlling the communication of disease within the community if the decision whether the act was or was not to be performed was the result of the exercise of discretion vested in the public entity or the public employee, whether or not such discretion be abused.
>
> (b) Neither a public entity nor a public employee is liable for an injury caused by an act or omission in carrying out with due care a decision described in subdivision (a).

A recent California Court of Appeal decision applied this immunity broadly to reject a FEHA claim based on an alleged failure to accommodate the plaintiff's religious beliefs during the COVID-19 pandemic. *Allos v. Poway Unified Sch. Dist.*, 112 Cal.App.5th 822, 834 (Cal. Ct. App. 2025). In *Allos*, the plaintiff alleged that the school district violated FEHA by not allowing her to work from home, and by requiring her to return to the office, during the COVID-19 pandemic. The Court of Appeal found that the school district was immune. The court held:

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> We agree with [defendant] PUSD that to the extent [plaintiff] Allos's claims are based on its decisions to allow employees to work from home and subsequently to require their return to in-office work, the claims are barred by the immunity afforded by section 855.4. . . . Likewise, [defendant] PUSD's decisions concerning vaccine requirements are also protected by this immunity.

Id. at 834. The court explained that "[b]y its plain language, section 855.4, subdivision (a) immunizes any 'decision' relating to the control of the communication of disease that is 'the result of the discretion vested in the public entity.' Such a 'decision' is immune, 'whether or not such discretion [was] abused.'" *Id.* (citation omitted). Thus, the court concluded, "PUSD's decisions concerning vaccine requirements are also protected by this immunity." *Id.* (quoting *City of Los Angeles v. Superior Court*, 62 Cal.App.5th 129, 144 (Cal. Ct. App. 2021). Importantly, the court found that the public entity was immune not only for its decisions concerning vaccine requirements, but also for its decisions concerning what accommodations to provide or not to provide to the plaintiff.

Here, just as in *Allos*, Plaintiffs allege that a public entity violated FEHA by making decisions concerning employee vaccine requirements, and by making decisions concerning what accommodations to provide or not provide to employees, in order to combat COVID-19. And, just as in *Allos*, the County exercised its broad discretion to institute a policy designed to combat COVID-19, and to select appropriate accommodations. Plaintiffs explicitly allege as much:

- "In early 2020, the world discovered a novel coronavirus, COVID-l9." Compl. ¶ 2.
- "Responding to the spread of Omicron and other variants, County executives ordered that all workers in high-risk settings in the County get the COVID-l9 vaccine plus the most recent boosters." *Id.* ¶ 5. "County executives have the sole authority to enforce COVID-19 mandates and policies in the County and retain the discretion to exempt anyone from their policies or amend their policies at any time." *Id.* ¶ 6.
- "In the fall of 2021, Defendant issued a mandate that all of its personnel must be vaccinated against COVID-19," and "subsequently informed Plaintiffs that, despite their religious exemptions, and because of the purportedly high-risk nature of their jobs, they would still be required to take the COVID-19 vaccine and booster or be placed on administrative leave." *Id.* ¶ 7, Ex. B ("This policy is issued as an emergency measure based on the strong recommendation of the Health Officer that employers adopt such policies immediately and based on the significant rise of COVID-19 cases and hospitalizations among the unvaccinated due to the Delta variant."), Ex. C.
- The County allegedly failed to provide Plaintiffs with appropriate accommodations while they were on leave. *Id.* ¶¶ 9-41. For instance, the County failed to allow Plaintiffs to telework. *Id.* ¶¶ 11, 14-18, 20, 22-29, 31-33, 35, 37-38, 40-41.

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- The County rescinded its vaccination requirement on September 27, 2022. *Id.* ¶ 56.

Just as in the *Allos case*, the County is therefore immune from liability under FEHA. Any other result would "place the court in the unseemly position of determining the propriety of decisions expressly entrusted to a coordinate branch of government." *Greenwood*, 89 Cal.App.5th at 863. As the Ninth Circuit has emphasized,

> When it comes to health and safety measures, the judiciary has long recognized that the 'safety and health of [a constituency] are, in the first instance for [a state] to guard and protect' . . . [w]hen actions are undertaken during a time of great uncertainty with a novel disease, 'medical uncertainties afford little basis for judicial responses in absolute terms' and [] legislative authority 'must be especially broad' in 'areas fraught with medical and scientific uncertainties.'

Seaplane Adventures, LLC v. Cnty. of Marin, 71 F.4th 724, 726, 730–31 (9th Cir. 2023) (citations omitted).

Accordingly, the Court should find that the County is immune from Plaintiffs' FEHA claim pursuant to California Government Code section 855.4.

D. THE COURT SHOULD DISMISS THE TITLE VII CLAIMS FILED BY NINE PLAINTIFFS, BECAUSE THEY FAILED TO TIMELY EXHAUST THEIR ADMINISTRATIVE REMEDIES

Nine Plaintiffs also failed to timely exhaust their administrative remedies.

Title VII requires that a plaintiff exhaust administrative remedies before filing suit. Exhaustion is a statutory precondition to suing. *Vinieratos v. U.S., Dep't of Air Force Through Aldridge*, 939 F.2d 762, 767–68 (9th Cir. 1991) (citing *Brown v. General Servs. Admin.*, 425 U.S. 820, 832 (1976)) ("Title VII specifically requires a federal employee to exhaust his administrative remedies as a precondition to filing suit."). "There are effectively two limitations periods for Title VII claims. First, a claimant must exhaust administrative remedies by filing a charge with the EEOC or an equivalent state agency . . . and receiv[e] a right-to-sue letter. The charge must be filed within 180 days after the allegedly unlawful employment practice occurred." *Scott v. Gino Morena Enterprises, LLC*, 888 F.3d 1101, 1106 (9th Cir. 2018) (internal citations omitted). "If the charge is initially filed with a state agency that enforces the state's own anti-discrimination laws, like the DFEH [since renamed Civil Rights Department] in California, the statutory 180-day rule does not apply. Instead, a Title VII charge must be filed within 300 days after the allegedly unlawful

employment practice or 30 days after notice that the state agency has terminated its proceedings under state law, whichever is earlier. 42 U.S.C. § 2000e-5(e)(1)." *Id.* at 1106 n.2. "Second, after exhausting administrative remedies, a claimant has 90 days to file a civil action." *Id.* at 1106.

The pendency of a class action may toll the time period in which the charge must be filed. *American Pipe & Construction Co. v. Utah*, 414 U.S. 538, 555 (1974). The tolling period begins when the class complaint is filed, and ends when the court decertifies the class. *See DeFries v. Union Pacific Railroad Co.*, 104 F.4th 1091, 1096 (9th Cir. 2024); *see also* Compl. ¶ 76.

Here, the allegedly unlawful employment practice of requiring the unvaccinated Plaintiffs to cease working in high-risk roles occurred on November 1, 2021. *See* Compl., Ex. C at 1 (stating that "[t[he County set a vaccination deadline of September 30 to provide additional time for workers to get vaccinated. . . . the County set November 1st as the date to ensure unvaccinated staff were no longer working in high-risk roles to the maximum extent possible"). On August 23, 2022—295 days later—a class action complaint was filed in the case *UnifySCC v. Cody*, No. 5:22-cv-01019-BLF. Compl. ¶ 76. The court decertified that class on May 21, 2025. *Id.*[1] Because 295 of the 300 days allotted to file an EEOC complaint had already elapsed before the class complaint was filed, each Plaintiff had only five days left to file an EEOC complaint after the court decertified the class. Several Plaintiffs did not comply with that statutory requirement, based on the filing dates of their EEOC complaints attached as Exhibit A to the Complaint. The following table summarizes this information.

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[1] Plaintiffs' requirement to file an administrative complaint was therefore tolled for 1002 days, from August 23, 2022 to May 21, 2025.

Plaintiff (Compl. ¶)	Leave Date	Days Elapsed Until 8/23/2022 Class Complaint	EEOC Claim Filed (*see* Compl., Ex. A)	Days After 5/21/2025 Decertification that EEOC Claim Was Filed	*Total Days Elapsed*
Ahn, Annie (¶ 9)	11/1/2021	295	6/10/2025	20	315
Gomez, Lourdes (¶ 19)	11/1/2021	295	7/1/2025	41	336
Hardy, Andrew (¶ 21)	11/1/2021	295	6/10/2025	20	315
Howard, Danele (¶ 22)	11/1/2021	295	6/8/2025	18	313
Kozich, William (¶ 30)	11/1/2021	295	6/23/2025	33	328
Nelson, Dale (¶ 34)	11/1/2021[2]	295	6/2/2025	12	307
Pulido, Aristides (¶ 35)	11/1/2021	295	6/3/2025	13	308
Ruano, Roxana (¶ 37)	11/1/2021	295	7/7/2025	47	342
Sanchez, Arnulfo (¶ 38)	11/1/2021	295	6/25/2025	35	330

Thus, each of the above Plaintiffs failed to exhaust their administrative remedies, because he or she did not file an EEOC complaint until more than 300 days after the allegedly unlawful employment practice occurred. *See Vinieratos*, 939 F.2d at 767–68; *Scott*, 888 F.3d at 1106. The Court should therefore dismiss the Title VII claims filed by those nine Plaintiffs.

V. CONCLUSION

For the above reasons, the Court should dismiss the Complaint.

Dated: October 17, 2025

Respectfully submitted,

TONY LOPRESTI
County Counsel

By: /s/ *Nathan A. Greenblatt*
NATHAN A. GREENBLATT
Deputy County Counsel

Attorneys for Defendant
COUNTY OF SANTA CLARA

[2] County records show that Mr. Nelson in fact went on leave on October 12, 2021, rendering his EEOC complaint even more untimely than the allegations in the Complaint show (by 20 days). County records reflect that the Nov. 1, 2021 leave date is accurate for the other Plaintiffs above.