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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,

Defendant.

No. 25CV06980 PCP

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

Date: March 6, 2026
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 **March 6, 2026** 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 move and hereby does 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, 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: December 22, 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, 32 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 while 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, thirty Plaintiffs have failed to plead that they have bona fide religious beliefs that conflicted with the County's vaccination requirement. Although the First Amended Complaint ("FAC") attempts to add individualized descriptions of Plaintiffs' asserted beliefs, most Plaintiffs still fail to plead a protected religious conflict under the Ninth Circuit's decision in *Detwiler v. Mid-Columbia Medical Center*, 156 F.4th 886 (9th Cir. 2025). *Detwiler* does not turn on whether a plaintiff sincerely holds religious beliefs or uses religious language. Rather, it asks whether the plaintiff plausibly alleges that the challenged requirement conflicts with those beliefs for religious reasons, as opposed to secular health, safety, scientific, or personal-preference reasons framed in religious terms. As shown below and summarized in the Declaration of Rick Chang in Support of Motion to Dismiss ("Chang Dec."), Exhibits A and B, allegations from 30 of the Plaintiffs are secular in substance and therefore fail to state claims under Title VII and FEHA.

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 FAC fail to meet this standard. Because no constitutional violation has been pled, Plaintiffs' *Monell* claim fails 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 today to second-guess the County's decisions in the midst of the pandemic, 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, eight Plaintiffs have failed to properly exhaust their administrative remedies before suing. Exhaustion is a statutory precondition to filing suit. Plaintiffs have 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, eight 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 FAC.

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 ha[d] 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 who work in high-risk settings get the COVID-19 vaccine and boosters. Compl. ¶ 5 & Ex. C.

The 32 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' FAC attempts to add individualized descriptions of asserted religious beliefs, but many remain generalized or secular in substance and do not plausibly allege a protected religious conflict.

The County granted all 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 each of them 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 after de-certification, 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)).

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.*, 156 F.4th 886, 893 (9th Cir. 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 891. 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 900-901. 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 895.

1. Plaintiffs Whose Alleged Objections to Vaccinate Are Secular in Substance Fail Under *Detwiler*

Applying *Detwiler*, at least 17 Plaintiffs fail to state a Title VII or FEHA claim because their FAC allegations show that the operative basis for their refusal to vaccinate is personal or secular, rather than religious. Even accepting Plaintiffs' allegations as true, the FAC explains that most Plaintiffs declined to vaccinate for secular reasons—concerns about safety, genetic or cellular modification, effects on reproductive health, injecting "foreign" or "unnatural" substances into the body, or subjective unease after prayer—rather than alleging that vaccination itself violates their religious beliefs.

Detwiler is controlling here because it addresses the same type of arguments made in the FAC: reliance on broad religious language (e.g., "body as a temple") paired with an explanation that the plaintiffs' opposition to a medical procedure fundamentally rests on a personal or secular judgment. The Ninth Circuit observed that numerous district courts have held that where "the religious principles are too broad, and the connection to personal, medical judgments are too tenuous, plaintiffs have not pled a religious belief," and that plaintiffs commonly invoke "that their bodies are temples of the Holy Spirit" and then explain they reached opposition through "their own research and individual prayer." *Id.* at 896. Because those exemption requests are "fundamentally

predicated on concerns about health consequences," district courts have generally dismissed such claims. *Id*. *Detwiler* further explains that plaintiffs cannot "'couch' their personal, secular beliefs in religious terms to claim Title VII protections," and warns against beliefs so broad as "to cover anything [plaintiffs] train[ ] it on." *Id*. (citations omitted).

That is exactly what many Plaintiffs allege here. Although Plaintiffs use religious vocabulary, their refusal to vaccinate is based on secular concerns—concerns about safety and protecting the body from harmful substances (*i.e.*, Ahn, Childs, D'Amour, DeDois, Kozich, Lim, Malvo, Isaac; worries about genetic or cellular modification (e.g., Garvin, Howard, Malvo Bowyer); reproductive impacts (*i.e.*, Kozich, Isaac); fears concerning injecting body with "foreign" or "unnatural" substances (*i.e.*, Alvarez, Gonzales-Murphy, Volle); issues affecting intangible feelings such as personal conscience, peace of mind, therapeutic proportionality, or personal revelation concerning the vaccine (*i.e.*, Garvin, Gomez, Gonzales-Murphy, Freeland, Nichols, Padilla, Perez, Perry), or simply fear of injecting a vaccine in one's body (*i.e.*, Pulido, Sanchez, Volle)—rather than facts showing that the COVID-19 vaccination at issue violates a bona fide religious principle as opposed to a personal health judgment framed in religious terms. *See* FAC ¶¶ 9-40; Chang Dec., Exh. A.

For example, Plaintiff Annie Ahn alleges that "[a]s a Buddhist, she is forbidden from acts that lead to the destruction of any potential life and, without a guarantee that the experimental vaccine will not do any harm to her body, being forced to take the vaccine would violate her religious belief." FAC ¶ 9. As pleaded, the basis for Ahn's objections is not a religious based prohibition on vaccines, but a conditional, health-based concern. She pleads uncertainty regarding the vaccine's safety, and seeks some form of "guarantee" that an "experimental" vaccine will not harm her body. That is a secular safety judgment improperly framed in a religious context. *Detwiler* rejected that type of argument. In *Detwiler*, the plaintiff invoked a broad religious concept—the duty to treat the body as sacred—but grounded her objection in the potential harm of the testing swab because it included a carcinogen. *Detwiler*, 156 F.4th at 891, 895. The Ninth Circuit held that such allegations failed to plead a bona fide religious conflict because the operative basis for the objection was a secular health judgment, not a religious mandate. *Id.* at 893, 895, 899-900.

Moreover, to the extent that Ahn's allegation could be read to suggest that Buddhism categorically forbids vaccination, the FAC pleads no facts identifying any such Buddhist doctrine, commandment, or tenet to that effect. *Detwiler* explains "some inquiry into the religious or secular nature of a belief is necessary to prevent religious labels from being carte blanche to ignore any obligation." *Id*. at 894. As it was not plead, the FAC should not be read to include such a belief.

Some Plaintiffs attempt to bolster otherwise secular rationales by adding allegations about prayer and spiritual unease (*i.e.*, Garvin, Gonzales-Murphy, Miller, Nichols, Perez). *See* Chang Dec., Exh. A. For example, Plaintiff Lydia Gonzales-Murphy alleged that "[s]he inquired in prayer, asking the Holy Spirit for direction for a vaccine that was being coerced, but she did not have the peace of the Holy Spirit to proceed." FAC ¶ 9. But the addition of prayer as a source of guidance or solace does not supply the missing nexus between a religious principle and the challenged requirement. *Detwiler* rejected that pleading approach. There, 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. *Detwiler*, 156 F.4th at 891. The Ninth Circuit nonetheless held invocation of prayer is "insufficient to elevate personal medical judgments to the level of religious significance." *Id*. at 897 (citation omitted).

For these Plaintiffs—Annie Ahn, Jorge Alvarez, Brandon Bowyer, Shirley Childs, Lananh D'Amour, Megan DeDios, Sinora Freeland, Jeremy Garvin, Lourdes Gomez, Lydia Gonzales-Murphy, Danele Howard, Rashaad Malvo, Carlos Padilla, Brenda Perez, Timothy Perry, Aristides Pulido, Arnulfo Sanchez, and Martha-Kathleen Volle—the Court need not resolve close questions about the scope of religious accommodation. *See* Chang Dec., Exh. A. Their own allegations establish that the asserted conflict with vaccination is secular in substance, and dismissal is therefore required as a matter of law. *Detwiler*, 156 F.4th at 893 ("However, a court is not required to accept as true legal conclusions couched as factual allegations."); *Iqbal*, 556 U.S. at 678 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.").

2. Plaintiffs Who Invoke Fetal Cell Lines Do Not Plausibly Plead a Religious Conflict

Thirteen Plaintiffs attempt to ground their objection to vaccination in the allegation that COVID-19 vaccines contain aborted fetal cells. *See* Chang Dec., Exh. B. But for many of these Plaintiffs, the FAC invokes fetal cell lines only as a label or conclusory statement, without alleging facts explaining why that fact creates a religious conflict with vaccination—as opposed to personal, moral, ethical, or philosophical objections. Under *Detwiler*, that statement alone is insufficient.

Detwiler instructs courts to look to a plaintiff's pleaded explanation for the alleged conflict and not to accept conclusory religious characterizations where the operative basis for the objection is not religious in substance. 156 F.4th at 895, 900–01. In discussing *Keene v. City & County of San Francisco*, 2023 WL 3451687 (9th Cir. 2023), the Ninth Circuit noted that the *Keene* plaintiffs invoking fetal cell lines, "identified the religious basis for their objection to vaccination as their Christian faith's opposition to abortion." *Detwiler*, 156 F.4th at 896, n.2. Here, by contrast, thirteen Plaintiffs invoke aborted fetal cells or cell lines without alleging any connection to a religious doctrine—such as a faith-based prohibition tied to abortion—or otherwise explaining why vaccines purportedly containing fetal cells would violate their religion rather than reflect a personal moral preference. *See* Chang Dec., Exh. B.

Here, Plaintiffs repeatedly invoke the notion that they are opposed to taking any COVID-19 vaccine that contains aborted fetal cells. *See* FAC ¶¶ 18, 22, 25, 26, 27, 28, 32, 33, 35, 38, 39. The FAC, however, does not squarely allege that the COVID-19 vaccines actually contained aborted fetal cells. In fact, COVID-19 vaccines do not contain aborted fetal cells.[1] Regardless, this demonstrates that Plaintiffs' opposition to the vaccination mandate was based on a mistaken secular, medical judgment, not a sincere religious tenet. *Detwiler* instructs that "some inquiry into the religious or secular nature of a belief is necessary to prevent religious labels from being carte blanche to ignore any obligation" and that "courts need not take plaintiff's conclusory assertions of

[1] https://www.uclahealth.org/treatment-options/covid-19-info/covid-19-vaccine-addressing-concerns. Defendant respectfully requests that the Court take judicial notice of this easily verifiable and indisputable fact that the COVID-19 vaccines do not contain aborted fetal cells. *See* Fed. R. Evid. 201(b) ("Courts may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the Court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.")

violations of their religious beliefs at face value." *Detwiler*, 156 F.4th at 894, 896 (citations omitted). The Court need not accept Plaintiff's conclusory characterization or suggestion that vaccination containing aborted fetal cells violates the Holy Scriptures, in particular where they fail to squarely allege that the vaccines actually contain aborted fetal cells. On the pleadings, Plaintiffs' beliefs reflect a secular, medical judgment—not a sincerely held religious belief. *See Detwiler*, 156 F.4th at 896 ("A threshold inquiry into 'religious' aspect of particular beliefs and practices cannot be avoided if we are to determine what is in fact based on religious belief, and what is based on secular or scientific principles."), quoting *Mason v. Gen. Brown Cent. Sch. Dist.*, 851 F.2d 47, 51 (2d. Cir. 1988).

For example, Plaintiffs Chirstina Rodriguez, Roxana Ruano, Adam Valle, and Brandi Villegas repeat the same conclusory allegation that it is their belief that to "inject a vaccine that contains aborted fetal cells into his body would violate the Holy Scripture," without further explanation or detail. FAC ¶¶ 35, 36, 38, 39. Those allegations are insufficient for at least two reasons. First, unlike Plaintiffs Lawanda Avila (FAC ¶ 11) and Coorina Ayala (FAC ¶ 12), who tied their objection to the use of aborted fetal cell lines in the development of the vaccines to a stated religious tenant—i.e., a faith-based opposition to abortion as "murder"—Plaintiffs noted here do not plead why the purported inclusion of "aborted fetal cells" in the vaccines violates a religious belief or tenet. They merely offer a conclusory and unsupported statement that it violates the Holy Scripture, but plead no actual religious doctrine or explain the nexus between such doctrine and the vaccination requirement. Second, these Plaintiffs' allegation rests on an unsupported factual premise. The FAC does not plead facts establishing that the COVID-19 vaccines "contain aborted fetal cells." Such a fact cannot be assumed, and would be factually wrong if it were. This also underscores *Detwiler's* point that exemption requests grounded in a plaintiff's personal, research-based understanding of medical or scientific matters—especially when they are wrong—do not plausibly plead a protected religious conflict. *See Detwiler*, 156 F.4th at 895.

Plaintiffs who object on the basis of fetal cells include Jeremy Garvin, William Kozich, Brandon Lim, Brian Miller, Rustyn Mooney, Duane Moten, Suzanne Nichols, Prabhakar Isaac, Dale Nelson, Christina Rodriguez, Roxana Ruano, Arnulfo Sanchez, Adam Valle, and Brandi Villegas.

See Chang Dec., Exh. B.

In conclusion of sections IV.A.1 and IV.A.2, *supra*, even accepting Plaintiffs' asserted beliefs as sincere, the FAC pleads secular objections rather than a religious conflict with vaccination. Under *Detwiler*, such allegations are insufficient to state a Title VII or FEHA claim. 156 F.4th at 895, 900–901. The Court should dismiss the claims of Plaintiffs identified in Chang Dec., Exhs. A and B.

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, 30 of the Plaintiffs plead insufficient facts about their religious beliefs or have failed to demonstrate a nexus between their religion and the specific belief in conflict with the work requirement.

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 Los Angeles 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).

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

The Court should also dismiss Plaintiffs' state law 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 (Cal. Ct. App. 2023) (quoting *Johnson v. State of Cal.*, 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 857-58. Section 855.4 "provides one such exception to a public entity's liability under . . . any other statute[]." *Id*. at 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:

> 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 is liable for an injury (lost wages and emotional harm) resulting from the public entity's discretionary decision (to not allow them to work unvaccinated in high-risk settings at the height of the deadly COVID-19 pandemic), pursuant to a policy designed to protect the public health by prevent the spreading of the disease. Plaintiffs explicitly allege as much:

- "In early 2020, the world discovered a novel coronavirus, COVID-l9." FAC ¶ 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 injured Plaintiffs who failed "to comply with the County's vaccination requirement by threatening to place them and/or actually placing them on indefinite, involuntary and unpaid administrative leave and stripping them of their employment benefits . . ." *Id.* ¶ 91.

- The County rescinded its vaccination requirement on September 27, 2022. *Id.* ¶ 55.

Just as in *Allos*, the County is immune from liability under FEHA pursuant to the plain language of Government Code section 855.4. 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 EIGHT PLAINTIFFS, BECAUSE THEY FAILED TO TIMELY EXHAUST THEIR ADMINISTRATIVE REMEDIES

Eight 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* FAC ¶ 75.

Here, the allegedly unlawful employment practice of requiring the unvaccinated Plaintiffs to cease working in high-risk roles occurred on November 1, 2021. *See* FAC, 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. FAC ¶ 75. 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 (FAC ¶)	Leave Date	Days Elapsed Until 8/23/2022 Class Complaint	EEOC Claim Filed (*see* FAC, 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
Howard, Danele (¶ 21)	11/1/2021	295	6/8/2025	18	313
Kozich, William (¶ 22)	11/1/2021	295	6/23/2025	33	328
Nelson, Dale (¶ 33)	11/1/2021[2]	295	6/2/2025	12	307
Pulido, Aristides (¶ 34)	11/1/2021	295	6/3/2025	13	308
Ruano, Roxana (¶ 36)	11/1/2021	295	7/7/2025	47	342
Sanchez, Arnulfo (¶ 37)	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 eight Plaintiffs.

V. CONCLUSION

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

Dated: December 22, 2025

Respectfully submitted,

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County Counsel

By: /s/ *Nathan A. Greenblatt*
NATHAN A. GREENBLATT
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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 November 1, 2021 leave date is accurate for the other Plaintiffs above.