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10 Attorneys for **Plaintiffs and the Class**

11
12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15 **UNIFYSCC**, an unincorporated California
16 association on behalf of employees in Santa Clara
17 County; **TOM DAVIS**, individually, and on
18 behalf of all others similarly situated; **MARIA**
19 **RAMIREZ**, individually, and on behalf of all
20 others similarly situated; **ELIZABETH**
21 **BALAYUT**, individually, and on behalf of all
22 others similarly situated;

20 Plaintiffs,

21 vs.

22 **SARA H. CODY**, in her official capacity as the
23 Santa Clara County Public Health Officer;
24 **JAMES WILLIAMS**, in his official capacity as
25 the County Counsel of Santa Clara County;
26 **JEFFREY SMITH**, in his official capacity as
27 the County Executive of Santa Clara County; and
28 **SANTA CLARA COUNTY**;

26 Defendants.

Case No.: 22-cv-01019 BLF

**DECLARATION OF TOM DAVIS IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

DATE: TBD
TIME: 9:00 a.m.
CTRM: 3, 5th Floor
JUDGE: Hon. Beth Labson Freeman]

1 I, Tom Davis, declare:

2 1. I am a named plaintiff and Class Representative in this putative class action brought
3 pursuant to Rule 23 of the Federal Rules of Civil Procedure. I make this declaration in support of
4 Plaintiffs' Motion for Partial Summary Judgment. Except as otherwise stated, I have personal
5 knowledge of the facts stated in this declaration, and, if called as a witness, I could and would
6 competently testify to them.

7 2. I worked as an HVAC Mechanic for the Facilities and Fleet in the County during the
8 Class Period. The County classified my position as "high risk." I did not take the COVID-19 vaccine
9 because it violates my sincerely held religious beliefs.

10 3. As outlined in the religious exemption form, I submitted to the County, I believe my
11 body is a temple for the Holy Spirit. It is a God-given responsibility and requirement for me to protect
12 the physical integrity of my Body against unclean food and injections. Vaccines contain neurotoxins,
13 hazardous substances, attenuated viruses, animal parts, foreign DNA, albumin from human blood,
14 carcinogens and chemical wastes that are proven harmful to the human body. The COVID-19
15 vaccination also includes aborted fetal cells. The COVID-19 vaccine, with its numerous additives and
16 its mechanism for altering my body, is the equivalent of a prohibited "unclean food" that causes harm
17 to my conscience. I believe in and follow God and the principles laid out in His Word, and I have a
18 deeply held belief that the COVID-19 vaccine violates them. A true and correct copy of the religious
19 exemption form I submitted to the County is attached hereto as **Exhibit A**. The County granted my
20 request for a religious exemption. Attached hereto as **Exhibit B** is a true and correct copy of a letter
21 sent by the County to Mr. Davis on November 2, 2021.

22 4. The County labeled my job "high-risk" despite me having little to no interaction with
23 the public, inmates living in jails, or hospital patients. In my job as an HVAC technician, I primarily
24 worked on roofs. I rarely interfaced with people, except to indicate to the building manager the work to
25 be done on the facility. However, even this was rare, as I had access to most worksite roofs without
26 needing to interface with any other individuals. For example, when working on County office buildings,
27 I would walk into the building and begin working in the mechanical room without interacting with
28 anyone. At the jails, I would speak briefly with the control desk officer, who was usually sitting behind

1 a glass barrier, to inform him of the work I would be doing. I would then let myself up onto the roof of
2 the jail without interacting with other deputies or inmates.

3 5. The County therefore relegated me to unpaid leave, even though the County granted my
4 religious exemption. I was not allowed to return to work unless I violated my sincerely held religious
5 beliefs by taking the COVID-19 vaccine. The County forced me to choose between providing for my
6 family or adhering to my religious convictions.

7 6. I worked in my position with the County's Facilities and Fleet Department throughout
8 the COVID-19 pandemic. During this time, I was required to wear a mask and test upon COVID-19
9 exposure or symptoms. Once the County's vaccination mandate was issued, I was no longer permitted
10 to utilize these protective measures. Instead, the County placed me on unpaid leave.

11 7. The County did not engage in an interactive process with me to determine reasonable
12 accommodations. My colleagues and I made several verbal recommendations for ways the County
13 could accommodate the HVAC Department, all of which had no cost associated with them. The
14 Department immediately dismissed these ideas and placed me on unpaid leave.

15 8. After placing me on leave, the County provided me with a list of positions that I may or
16 may not qualify for. However, I had to apply and openly compete for these positions, and many of them
17 would have resulted in a significant pay reduction and did not utilize my skill sets and professional
18 training.

19 9. I applied for several positions within the County, including: Janitor, Work Center
20 Manager, Electrical/Electronic Assistant, Park Maintenance Crafts Worker, and Utility Worker. After I
21 applied, and in some cases interviewed, for these positions, I was informed that many of these jobs were
22 restricted to vaccinated personnel. I was not offered a job within the County.

23 10. Ultimately, I sought employment outside the County at my former employer, Pacific
24 Coast Trane Controls ("TRANE"). I was granted a religious exemption at TRANE and was permitted
25 to work if I masked and tested.

26 11. In September of 2022, the County lifted its vaccination mandate. The Facilities and Fleet
27 Department asked me to return to my position. However, I had to fulfill my employment contract with
28 TRANE. I returned to my position as an HVAC Mechanic for the County in December of 2023.

EXHIBIT “A”

**COUNTY OF SANTA CLARA
RELIGIOUS EXCEPTION REQUEST FORM
Accommodation to SARS-CoV-2 (COVID-19) Vaccination Requirement**

FULL NAME THOMAS MARTIN DAVIS	EMPLOYEE ID (IF APPLICABLE) 73195
JOB TITLE (IF APPLICABLE) HVAC	LOCATION OF WORKSITE BERGER
COUNTY DEPARTMENT OR AGENCY FAF	COUNTY SUPERVISOR (IF APPLICABLE) PHIL BEJAR
PHONE NUMBER 408 439-7948	EMAIL Tom.DAVIS@FAF.SCCGOV.ORG
NAME OF EMPLOYER/SCHOOL (IF CONTRACTOR OR STUDENT)	

Based on my sincerely held religious belief, practice, or observance, I am requesting an exception to the County of Santa Clara's COVID-19 vaccination requirement as a religious accommodation.

Please identify your sincerely held religious belief, practice, or observance that is the basis for your request for an exception as a religious accommodation.

Please See attached

Please briefly explain how your sincerely held religious belief, practice, or observance conflicts with the County's COVID-19 vaccination requirement.

Please See attached

Please provide any additional information that you think may be helpful in processing your religious accommodation request.

Please See attached

While my request is pending, I understand that I must comply with all other COVID-19 prevention requirements (e.g., face coverings, regular asymptomatic testing) for unvaccinated or not fully vaccinated individuals under County policy and state and local public health directives. If my request is granted, I understand that I will be required to comply with COVID-19 prevention requirements, other than vaccination, as specified.

I verify the truth and accuracy of the statements in this request form.

Signature: Thomas M Davis Date: 8-19-21

Name of County Staff Receiving This Request Form: _____

Date Received: _____

To the Vaccine Exemption Committee,

I hereby assert my right to a religious exemption from the Covid-19 vaccine whether it is approved or still under the FDA EUA. I am a Christian who believes in the Bible, including the teachings in the New Testament. I have a Christian worldview. This perspective recognizes that faith and conscience compel an individual to submit to the proper jurisdiction within the rule of law, in this case, Divine Law.

I am objecting to vaccines because I believe in and follow God and the principles laid out in His Word and I have a deeply held belief the Covid-19 vaccine violate them. I believe my body is a temple for the Holy Spirit.

Specifically, the New Testament teaches that:

Do you not know that you are the temple of God and that the Spirit of God dwells in you? If anyone defiles the temple of God, God will destroy him. For the temple of God is holy, which temple you are...What? Or do you not know that your body is the temple of the Holy Spirit *who is* in you, whom you have from God, and you are not your own? 1 Corinthians 3:16-17, 6:19 (NKJV).

Accordingly I believe, pursuant to my Christian faith, that my body is a temple of the Holy Spirit. It is a God-given responsibility and requirement for me to protect the physical integrity of my Body against unclean food and injections.

Vaccines contain neurotoxins, hazardous substances, attenuated viruses, animal parts, foreign DNA, albumin from human blood, carcinogens and chemical wastes that are proven harmful to the human body. (Please see <http://www.cdc.gov/vaccines/pubs/pinkbook/downloads/appendices/b/excipient-table-2.pdf>). Where the Covid-19 vaccine specifically is not on this list the point still stands

Again in 2 Corinthians 7:1, there is this admonition against defiling the flesh and the spirit:

"Having therefore these promises, dearly beloved, let us cleanse ourselves from all filthiness of the flesh and spirit, perfecting holiness in the fear of God."

The New Testament requires of Christians that we, "**Render to Caesar the things that are Caesar's, and to God the things that are God's.**" (Mark 12:17). When it comes to consuming things into our own bodies, as opposed to make payments to government, compliance with God's law is required.

The mandated Covid-19 vaccine, with its numerous additives and its mechanism for altering my body, is the equivalent of a prohibited "unclean food" that causes harm to my conscience. Vaccines to me are unclean. I believe in and follow God and the principles laid out in His Word and I have a deeply held belief that the Covid-19 vaccine violates them.

If my exemption is accepted I will continue to wear a face mask as a courtesy to my fellow employees and while working in the various buildings I work in.

I make this request for the glory of God and consistent with my faith. Thank you for your consideration of it.

Respectfully,

EXHIBIT “B”

From: [Kiefel, Kim](#)
To: [Davis, Tom](#)
Cc: [EODRA](#); [Walker, Andy](#); [Ortega, Lin](#)
Subject: Provisional Vaccination Exemption Determination
Date: Tuesday, November 2, 2021 5:39:38 AM
Attachments: [T Davis HR Exemption 11.02.21.pdf](#)

Tom,

Please see the attached Provisional Vaccination Exemption.
It is very important that you follow the COVID 19 health and safety protocols outlined in the letter.

Thank You,

Kim Kiefel

Administrative Support Officer III

County of Santa Clara | Facilities and Fleet Department

2310 N. First Street | Suite 200 | San Jose, Ca 95131

Office: (408) 993-4722 | **Fax:** (408) 993-4777

Email: kim.kiefel@faf.sccgov.org

County of Santa Clara

Facilities and Fleet Department

County Center at Charcot
2310 North First Street, Suite 200
San Jose, California 95131-1011
(408) 993-4600



November 2, 2021

Dear Thomas Davis,

The County is provisionally granting your request for a religious exemption from its vaccination requirement, subject to the conditions in this letter. The County does so without having yet concluded that you have stated a legally sufficient basis to support your exemption.¹

However, based on your status as not fully vaccinated and the significant COVID-19 health and safety risks in your current position, job duties, and work environment, the County cannot safely accommodate you in your current role. Accordingly, you will be placed on administrative leave effective immediately. The Department will now meet with you to determine whether there is a reasonable accommodation that would allow you to continue working for the Department, **such as a reassignment or transfer to a lower-risk position**, or an unpaid leave of absence. Please note that reassignments and transfer opportunities are very limited.

Please contact Andy Walker if you wish to schedule an appointment with the Department to discuss reassignment, transfer, or your application for an alternate position in the Department (or, if that is unavailable, an alternate position within the County). You may apply your applicable leave banks (such as accrued vacation, STO, comp time, and, if applicable, sick time) to this leave of absence, after which your leave will be unpaid. If you are able to be reassigned to or selected for an alternate position while you are on administrative leave, you will return to paid status.

If the Department is unable to reassign or accommodate you in a lower-risk position, you will be referred to the Equal Opportunity Division (EOD) for potential placement elsewhere in the County in an open position for which you meet the minimum qualifications. For your convenience, a link to the County's job specifications may be accessed through sccjobs.org, using the *Job Specifications* quick-link. To facilitate EOD's placement efforts, you are encouraged to update your job application using the County's Neogov system at www.sccjobs.org, using the *Access to NEOGOV Online Job Application Account* quick-link. The County anticipates that placement opportunities will be limited given the number of personnel who may also be seeking such opportunities outside their departments.

If you have questions regarding this process, please contact Andy Walker.

¹ **The County reserves the option to hold an interactive process meeting regarding, or to challenge the legal and/or factual grounds for, your exemption request. The County further reserves the right to revoke the decision to provisionally grant your exemption request if it later determines that you have not provided a legally sufficient basis to support your request.**

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

DocuSign Envelope ID: B367EC29-1283-4C42-8AD9-A83A72E93D0A

DocuSigned by:
Sincerely,

BE6879EDA66F4E9...
Jeff Draper
Director

c: Equal Opportunity Division (EODRA@eod.sccgov.org)

Decl Davis ISO

Final Audit Report

2024-07-10

Created:	2024-07-09
By:	Susan Kenney (skenney@tylerlawllp.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAADXa2rspaqBnAw3mE5VJHWIAcfhxURgHF

"Decl Davis ISO" History

-  Document created by Susan Kenney (skenney@tylerlawllp.com)
2024-07-09 - 6:17:46 PM GMT
-  Document emailed to airman61@hotmail.com for signature
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-  Email viewed by airman61@hotmail.com
2024-07-10 - 2:58:20 AM GMT
-  Signer airman61@hotmail.com entered name at signing as Tom Davis
2024-07-10 - 3:12:17 AM GMT
-  Document e-signed by Tom Davis (airman61@hotmail.com)
Signature Date: 2024-07-10 - 3:12:19 AM GMT - Time Source: server
-  Agreement completed.
2024-07-10 - 3:12:19 AM GMT