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

UNIFYSCC, et al., Plaintiffs, v. COUNTY OF SANTA CLARA, Defendant.	No. 22-CV-01019 BLF **MOTION FOR SUMMARY JUDGMENT** Date: November 24, 2025 Time: No hearing scheduled Ctrm: 3, 5th Floor Judge: The Hon. Beth Labson Freeman

I. INTRODUCTION

Plaintiffs Tom Davis, Maria Ramirez, and Elizabeth Baluyut are County of Santa Clara ("County") employees who asserted religious objections to the County's COVID-19 vaccination requirement, which the County instituted to protect vulnerable residents and employees at the height of the deadly COVID-19 pandemic. The County now moves for summary judgment on Plaintiffs' Title VII and Fair Employment and Housing Act (FEHA) claims. *See* ECF No. 55 (Am. Compl.) at 12, 14.

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 applies, in full force, to the County's decisions on how to best 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 State Legislature.

In addition, Plaintiffs Davis and Ramirez failed to properly exhaust their administrative remedies before asserting their Title VII claims. Exhaustion is a statutory precondition to filing suit. Although Plaintiffs had ample time to comply with their exhaustion requirements, Davis missed his deadline to file an administrative complaint, while Ramirez missed her deadline to sue after receiving the right to sue. Dismissal on this basis is straightforward and mandatory.

Accordingly, the Court should apply well-established law and grant summary judgment.

II. FACTUAL BACKGROUND

This lawsuit stems from the County's response to the deadly COVID-19 pandemic, from which over 110,000 people died in the State of California, and over 3,000 died in Santa Clara County alone. As the Court explained in prior orders, in August 2021 the County required its employees to get the COVID-19 vaccine and boosters. Greenblatt Decl., Ex. 1 [[Smith Decl.] ¶¶ 4-16, 21-22; Greenblatt Decl., Ex. 2 [Marquez Decl.] ¶¶ 32-41; Greenblatt Decl., Ex. 3 [Rudman Decl.] at Ctrl_0024-29. Employees, such as Plaintiffs, who objected on religious grounds to being

vaccinated were exempted but were not permitted to continue in-person work in high-risk settings. [Smith Decl. ¶¶ 10-16, 21-22; Marquez Decl. ¶¶ 32-41.] The County accommodated exempt employees, including with paid and unpaid leave. *Id.*

Plaintiffs assert that the County should have done more to accommodate them. Plaintiffs assert that they "should have been accommodated through testing and masking." Greenblatt Decl., Ex. 4 (July 18, 2025 Resp. to Rog 18) at 5. Alternatively, Plaintiffs assert that they should have been transferred to certain lower-risk jobs. *Id.*

III. ARGUMENT

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

The Court should 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. The Act's "purpose is assuring . . . judicial abstention in areas in which the responsibility for basic policy decisions has been committed to coordinate branches of government, because any 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) (citation omitted). The Act "establishes the basic rules that public entities are immune from [noncontractual] liability except as provided by statute ..." *Greenwood.* at 857–858 (citation omitted). Section 855.4 provides that:

> (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 . . . . (emphasis added)

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 (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.

Allos 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). The court found that the defendant was immune not only for its decisions concerning vaccine requirements, but also for decisions concerning what accommodations to provide or not to provide related to public health measures.

Here, Plaintiffs allege that a public entity (the County) is ***liable for an injury*** (lost wages) ***resulting from the public entity's discretionary decision to perform [the] act*** of not allowing them to work unvaccinated in high-risk settings at the height of the deadly COVID-19 pandemic. The County made that decision to ***promote the public health of the community by preventing disease***. *See* Greenblatt Decl., Ex. 1 ¶¶ 4-16, 21-22; Greenblatt Decl., Ex. 2 ¶¶ 32-41; Greenblatt Decl., Ex. 3 at Ctrl_0024-29. Just as in *Allos*, 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. For example, Plaintiffs' contention that they "should have been

accommodated through testing and masking" violates the County's authority under Section 855.4 to decide how best "to promote the public health of the community by preventing disease," by developing the precise public health measures the County needed to take. Greenblatt Decl., Ex. 1 at 5. As the Ninth Circuit has emphasized, "[w]hen 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) (citation omitted).

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

B. THE COURT SHOULD DISMISS THE TITLE VII CLAIMS FILED BY DAVIS AND RAMIREZ, BECAUSE THEY FAILED TO TIMELY EXHAUST THEIR ADMINISTRATIVE REMEDIES

Plaintiffs Davis and Ramirez also failed to timely exhaust their administrative remedies for their Title VII claims.

Title VII requires that a plaintiff exhaust his or her 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)." *Scott* at 1106 n.2. "Second, after exhausting administrative remedies, a claimant has 90 days to file a civil action." *Scott* at 1106; *O'Donnell v. Vencor Inc.*, 466 F.3d 1104, 1111 (9th Cir. 2006).

Here, Plaintiff Davis did not "exhaust [his] administrative remedies by filing a charge with the EEOC or an equivalent state agency ... and receiv[e] a right-to-sue letter" within 300 days after the allegedly unlawful employment practice of placing him on administrative leave on November 1, 2021. *Scott*, 888 F.3d at 1106 & n.2. In fact, as of October 15, 2025, Davis had not filed any charge with the EEOC. or a California state agency. Greenblatt Decl, Ex. 5 (Davis Dep. Tr.) at 251:15-20. He therefore failed to comply with a statutory "precondition to filing suit." *Vinieratos*, 939 F.2d at 767–68.

Plaintiff Ramirez did file a charge with the EEOC and obtained a right to sue letter. However, she failed to file a Title VII claim in a civil action within 90 days of receiving her right to sue. Specifically, Ramirez obtained a right to sue letter on February 25, 2022, and was required to file her Title VII claim within 90 days. Greenblatt Decl., Ex. 6 (County_Unify _000100). (Ramirez right to sue letter stated: "**your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.**")(emphasis in original). She did not do so. Instead, Ramirez did not file a Title VII claim until August 23, 2022, 179 days later. ECF No. 55 at 14; ECF No. 1 at 9-12; *Gamble v. Kaiser Found. Health Plan, Inc.*, 348 F. Supp. 3d 1003, 1022 (N.D. Cal. 2018) (finding that Title VII claim asserted in amended complaint was time-barred). Ramirez therefore failed to comply with a statutory deadline, of which she had clear notice.

The Court should therefore dismiss the Title VII claims filed by Davis and Ramirez.

IV. CONCLUSION

For the above reasons, the Court should grant summary judgment to the County on Plaintiffs' FEHA claim, and on Davis's and Ramirez's Title VII claims.

DATED: November 24, 2025

By: */s/ Nathan A. Greenblatt*
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