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OPINION, U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT (JANUARY 6, 2026)

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

CHARLES MILLER, an individual,

Plaintiff-Appellant,

v.

CHARLESTON AREA MEDICAL CENTER, INC.,

Defendant-Appellee.

No. 24-2129

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph R. Goodwin, District Judge. (2:23-cv-00340)

Before: KING, WYNN, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished opinion.
Judge Wynn wrote the opinion, in which Judge King and Judge Quattlebaum joined.

Unpublished opinions are not binding precedent in this circuit.

WYNN, Circuit Judge:

Under Title VII, an employer must reasonably accommodate an employee's religious beliefs unless doing so would result in an undue hardship on the employer.

In this case, Charles Miller was fired from his job as a respiratory therapist at a hospital after he refused to receive the COVID-19 vaccine per federal regulations. Miller sued his former employer for religious discrimination, alleging that they should not have denied his religious exemption request.

Because the district court properly concluded that the hospital could not accommodate an unvaccinated respiratory therapist without incurring a substantial risk to the health of their employees and patients, and that such a risk constituted undue hardship, we affirm the district court's grant of summary judgment in favor of the hospital.

I.

A.

For nearly twenty-five years, Plaintiff Charles Miller worked as a respiratory therapist for Defendant Charleston Area Medical Center (Charleston Medical Center), which operates the largest hospital in Charleston, West Virginia. As a respiratory therapist, Miller administered care and managed ventilators for patients with respiratory conditions. That role required Miller to come in regular and direct contact with patients, families, visitors, and other hospital staff.

Charleston Medical Center has long required its staff to receive vaccinations for infectious diseases. And until 2021, Miller had complied with those vaccination requirements. But then the COVID-19 pandemic hit. And in August 2021, in anticipation of a Centers for Medicare & Medicaid Services (CMS) rule requiring hospitals to ensure their employees receive the COVID-19 vaccine, Charleston Medical Center added COVID-19 to its list of required vaccinations. *See* 86 Fed. Reg. 61561, 61616-27; 42 C.F.R. § 482.42.

Just as it did with other vaccines, Charleston Medical Center allowed employees to seek medical or religious exemptions from its COVID-19 vaccination requirement. Charleston Medical Center allowed employees to continue their employment while the hospital considered their exemption request. However, once Charleston Medical Center rejected a particular request, it deemed any employee that remained unvaccinated to have "voluntarily resigned from employment." J.A. 385.[1]

In September 2021, Miller submitted his exemption request. He asserted that the COVID-19 vaccine "us[ed] fetal cell lines" and that "[p]artaking in a vaccine made from aborted fetuses makes me complicit in an action that offends my religious faith." J.A. 398. He continued that "any coerced medical treatment goes against my religious faith and the right of conscience to control one's own medical treatment[.]" J.A. 398. He also listed detailed reasons why he believed the vaccine requirement was illegal and violated his

[1] Citations to the "J.A." refer to the Joint Appendix filed by the parties in this appeal.

personal rights. And he disclosed that he suffered from several cardiac conditions, which motivated him "not to take the risk to take this vaccination[.]" J.A. 400.

In February 2022, Charleston Medical Center denied Miller's medical and religious exemption requests, noting that Miller had not cited a specific tenet of his religious belief that contradicted the vaccine policy, that certain COVID-19 vaccine options did not use fetal cell lines, and that Miller had not sought vaccine exemptions for seasonal flu in the past. Charleston Medical Center also confirmed that "every request for a religious accommodation was reviewed by an internal team to determine if the request stated a sincerely-held religious belief (as opposed to moral or personal) that must be reasonably accommodated, where possible, without undue hardship, pursuant to state and federal law." J.A. 425. Miller elected not to receive the vaccine and was terminated from his employment with Charleston Medical Center on February 24, 2022.

B.

After receiving a right-to-sue letter from the Equal Employment Opportunity Commission, Miller filed a complaint against Charleston Medical Center in federal court, alleging (1) religious discrimination and retaliation under Title VII of the Civil Rights Act, (2) religious discrimination under the West Virginia Human Rights Act (WVHRA), and (3) disability discrimination under federal and state law for the denial of his medical exemption.

On Charleston Medical Center's motion, the district court dismissed all but the religious discrimination claims under Title VII and WVHRA.

After discovery, Charleston Medical Center moved for summary judgment, arguing that Miller's objections to the vaccine were neither religious nor sincere and that allowing an unvaccinated respiratory therapist to continue working would pose an undue hardship for the hospital. To support its undue-hardship defense, Charleston Medical Center cited the economic risks of losing Medicare and Medicaid contracts for violating the CMS mandate, as well as the non-economic risks of increased COVID-19 transmission to the "patients, families, staff, volunteers, visitors, and health care providers" with whom Miller would interact on a routine basis. J.A. 456. Charleston Medical Center pointed out that, as a respiratory therapist, Miller "almost certainly would have worked directly with patients who had COVID-19[.]" J.A. 456.

The court granted summary judgment for Charleston Medical Center. Without reaching the religious nature or sincerity of Miller's beliefs, the court found that Miller's continued employment as an unvaccinated respiratory therapist posed an undue hardship to Charleston Medical Center.

Miller timely appealed.

II.

We review a grant of summary judgment de novo, "using the same standard applied by the district court." *Henry v. Purnell*, 652 F.3d 524, 531 (4th Cir. 2011). Accordingly, we consider evidence and make reason-

able inferences "in the light most favorable to the nonmoving party." *Id.*

III.

Miller appeals only the district court's finding of undue hardship. With the benefit of recent Supreme Court and Fourth Circuit guidance on this precise issue, we affirm.

Under Title VII of the Civil Rights Act of 1964, an employer may not "discharge any individual, or otherwise . . . discriminate against any individual . . . because of such individual's . . . religion[.]" 42 U.S.C. § 2000e-2(a)(1). When assessing a claim that an employer failed to accommodate an employee's religion, we use a burden-shifting framework. First, the employee must establish a prima facie case that their employer failed to accommodate their bona fide religious belief. *E.E.O.C. v. Firestone Fibers & Textiles Co.*, 515 F.3d 307, 312 (4th Cir. 2008). Then, "the burden . . . shifts to the employer to show that it could not reasonably accommodate the plaintiff's religious needs without undue hardship." *Id.* (quoting *Chalmers v. Tulon Co. of Richmond*, 101 F.3d 1012, 1019 (4th Cir. 1996)) (cleaned up).

Because the district court assumed without deciding that Miller had established his prima facie case, we address only the question of whether accommodating Miller's religious exemption would constitute an undue hardship for Charleston Medical Center. We agree with the district court that it would.

First, we discuss the standard for undue hardship under Title VII, as we recently articulated it in *Hall v. Sheppard Pratt Health System, Inc.*, 155 F.4th 747

(2025). Then, we apply that standard to the facts in this case.

A.

Under Title VII, an employer need not accommodate an employee's requested religious exemption if doing so would cause "undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j).[2] In construing "undue hardship," the lower courts, applying Supreme Court precedent, initially required that employers demonstrate burdens or costs that are "more than . . . *de minimis*." *Groff v. DeJoy*, 600 U.S. 447,454 (2023) (quoting *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63,84 (1977)). However, the Supreme Court has since clarified the Title VII undue-hardship standard in *Groff Id.* at 473. There, the Court held that undue hardship exists when an employer shows that "granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 470. In evaluating these costs, we must consider "all relevant factors in the case at hand,

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[2] Miller also seems to appeal the district court's judgment on his claims under the WVHRA. As the district court noted, the West Virginia Supreme Court construes the WVHRA "to coincide with the prevailing federal application of Title VII unless there are variations in the statutory language that call for divergent applications[.]" *Hanlon v. Chambers*, 464 S.E.2d 741, 754 (W. Va. 1995). The WVHRA bars employers from discrimination based on religion. *See* W. Va. Code §§ 16B-17-3(h); 16B-17-9(1). Further, West Virginia state regulations mirror the undue-hardship standard in Title VII. *See* W. Va. Code St. R. § 71-3-3. Accordingly, we agree with the district court that application of the state standard does not deviate from the federal standard here, and we therefore extend our analysis to both claims.

including the particular accommodations at issue and their practical impact[.]" *Id.*

We recently applied the *Groff* standard to mandatory COVID-19 vaccination for healthcare employees. *See Hall*, 155 F.4th at 748-49.

In *Hall*, an admissions coordinator at an in-patient clinic for patients with eating disorders applied for a religious exemption to the health system's COVID-19 vaccination mandate. *Id.* at 749. But we held that her employer would have suffered an undue hardship if it had been forced to allow her to work unvaccinated based on the nature of the clinic's business. Specifically, "Hall's position required her to interact with medically compromised patients" and with her fellow employees. *Id.* at 753-54. Her unvaccinated status would have increased the risk of a COVID-19 outbreak, which would have been severely disruptive for patients and for the clinic. *Id.* And the clinic had considered alternative accommodations, such as allowing Hall to work remotely, but had ultimately determined that it could not accommodate the requested exemption without undue hardship. *Id.* at 754.

In determining that these facts sufficed to allow the clinic to deny Hall's request, we emphasized that undue hardship could arise from "economic and non-economic costs" incurred by granting the exemption. *Id.* at 752. Non-economic costs include "threats to the health and safety of employees and the people they serve." *Id.* at 753. We also held that courts should evaluate the burden of granting a particular religious accommodation "in the aggregate." *Id.* at 752 (citing *Hardison*, 432 U.S. at 84 n.15). That is, courts should consider the costs an employer incurs by accommodating

not just the plaintiff, but also "all similarly situated employees." *Id.*

B.

Following *Hall*, we turn to whether Charleston Medical Center would incur an undue hardship by granting Miller's religious-exemption request. Considering all evidence in the light most favorable to Miller, we agree with the district court that Charleston Medical Center successfully demonstrated an undue hardship.

Charleston Medical Center asserts that allowing Miller to continue treating patients in his role as a respiratory therapist without the protection of a vaccine would pose an undue hardship on the hospital for two independent reasons: (1) it would unacceptably increase the risk of transmission of COVID-19 to patients and staff, and (2) his continued employment would bring the hospital out of compliance with the CMS mandate. We need not address Charleston Medical Center's argument as to the CMS mandate, however, because the increased risk of transmission alone is sufficient to demonstrate an undue hardship to the hospital.

Our prior decision in *Hall* all but decides this case. As in *Hall*, the plaintiff here was in direct and regular contact with staff and highly sensitive patients at a medical facility. Also as in *Hall*, the medical-facility employer had a procedure in place for evaluating religious exemptions to its vaccination requirement. And Miller concedes, as did Hall, that the vaccine effectively diminished the risk of "dangerous or deadly transmission" of COVID-19. J.A. 26.

Charleston Medical Center, much like the employer in *Hall*, ultimately denied the plaintiff's requested

religious exemption to promote its goal of "provid[ing] the safest environment for our employees, patients, visitors and others who come to our facilities, and in doing so minimiz[ing] the risk of making any patient sicker by transmitting COVID-19." J.A. 384. In making that decision, the hospital here, as in *Hall*, "considered the effect of granting not just [the plaintiff's] request but also those of the significant number of other employees requesting a religious exemption across the hospital system." *Hall*, 155 F.4th at 754.

Despite those substantial similarities, Miller claims his case is different. Specifically, he argues that Charleston Medical Center failed to provide an "individualized assessment" of his particular circumstances or consider alternative "accommodations" that could have mitigated the hardship of Miller's continued employment. Opening Br. at 25.

Miller is right that there are some differences between his case and *Hall*. There is scant evidence in the record that Charleston Medical Center spent the kind of time brainstorming potential accommodations that the hospital system in *Hall* did. But we are unpersuaded that this difference renders the district court's grant of summary judgment erroneous.

For one, we never suggested that the *Hall* employer's efforts to identify potential accommodations represented the floor of what an employer must do to demonstrate undue hardship. There, to be sure, the employer had "put[] its strongest foot forward" by "consider[ing] not only the employee's suggested accommodation but also other potential accommodations," and we therefore noted that the hospital system had "*easily* demonstrated the requisite undue hardship necessary to deny Hall's religious accommodation

request under Title VII." *Hall*, 155 F.4th at 752, 755 (emphasis added). But future litigants should not view our opinion in *Hall* as providing a checklist for demonstrating undue hardship; more modest efforts by an employer can be enough.

We also think there is an obvious factual difference between this case and *Hall* that would have made a search for alternative accommodations futile in Miller's case. Hall was an admissions coordinator who had regular but somewhat brief interactions with patients. Her job was simply to complete intake procedures that would then allow other treating physicians to provide care. As such, Hall argued—both to her employer and this Court—that she could perform at least parts of her job remotely. But Miller was a treating respiratory therapist. His core job duties required him to interact in-person with patients with respiratory issues—patients particularly vulnerable to the effects of a nosocomial respiratory infection like COVID-19—and he never suggested (nor, we think, could he) that he could perform this role remotely.

We agree, then, with the district court that, given the particular set of facts presented here, a roving search for alternatives would have been futile because it was "painstakingly obvious" that there was no alternative arrangement that would allow a respiratory therapist to continue treating his patients for a respiratory illness without the protection of a vaccine. *Miller v. Charleston Area Med. Ctr.*, No. 2:23-cv-340, 2024 WL 4518293, at *5 (S.D.W. Va. Oct. 17, 2024). Some of our peer circuits have recognized this narrow futility exception even *post-Groff*. *See, e.g.*, *Smith v. City of Atl. City*, 138 F.4th 759, 774 (3d Cir. 2025) (employer may still "decline[] to consider

any accommodation as futile due to the presence of undue hardship"); *Bordeaux v. Lions Gate Ent., Inc.*, No. 23-4340, 2025 WL 655065, at *1 n.3 (9th Cir. Feb. 28, 2025) (employer "was not required to discuss an infeasible alternative accommodation"). We caution, however, that the circumstances rendering a search for alternative accommodations truly futile are rarely presented. Those circumstances are presented here due to both the particular nature of Miller's job as a respiratory therapist and the particular nature of the COVID-19 illness that Charleston Medical Center sought to safeguard against through its vaccine mandate.

Therefore, considering the nature of Charleston Medical Center's business and the practical effect granting Miller's request would have had on the hospital, we agree with the district court that Charleston Medical Center demonstrated that accommodating Miller's requested religious exemption would have caused undue hardship.

IV.

For the foregoing reasons, the district court's judgment is affirmed.

AFFIRMED

JUDGMENT, U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT (JANUARY 6, 2026)

FILED: January 6, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

CHARLES MILLER, an individual,

Plaintiff-Appellant,

v.

CHARLESTON AREA MEDICAL CENTER, INC.,

Defendant-Appellee.

No. 24-2129
(2:23-cv-00340)

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ Nwamaka Anowi
Clerk

MEMORANDUM OPINION AND ORDER, U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA (OCTOBER 17, 2024)

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

CHARLES MILLER,

Plaintiff,

v.

CHARLESTON AREA MEDICAL CENTER,

Defendant.

Civil Action No. 2:23-cv-00340

Before: Joseph R. GOODWIN, U.S. District Judge.

MEMORANDUM OPINION AND ORDER

Pending before the court is Defendant's Motion for Summary Judgment filed by Defendant Charleston Area Medical Center, Inc. ("CAMC"). [ECF No. 35]. This motion is now ripe for review. For the reasons that follow, CAMC's motion, [ECF No. 35], is GRANTED.

I. Background

Plaintiff Charles Miller filed his complaint before this court alleging that Defendant CAMC demon-

strated a pattern of discriminatory and illegal behavior through the implementation of a COVID-19 vaccination mandate. Charles Miller ("Plaintiff") was employed by CAMC as a respiratory therapist for over 30 years. [ECF No. 1, ¶¶ 7, 13]; [ECF No. 1]. On September 11, 2021, during Plaintiffs employment, CAMC instituted a policy requiring all its employees to receive a COVID-19 vaccine unless a qualifying medical exemption applied. [ECF No. 9-1, at 2] ("Anyone requesting an exemption/accommodation must submit a completed 'Request for Exemption from COVID-19 Vaccination' form by Sept. 8. . . . These forms will be reviewed, and the employee notified if approved."); *see also* [ECF No. 9-2] (explaining the vaccination policy and providing a link to an exemption request form).

Pursuant to this policy, Plaintiff requested both a religious and medical exemption. *See* Exhibit A; [ECF No. 1-1]. First, Plaintiff stated that the COVID-19 vaccine was "not a traditional vaccine, but rather a gene therapy with the potential to alter a recipient's DNA." and thus was a violation of his religious beliefs. [ECF No. 1, ¶ 21]. Second, Plaintiff stated that his heart related issues and high blood pressure made vaccine injections dangerous. *Id.* ¶ 24. Both Plaintiffs September 11, 2021, exemption request, and his similar February 23, 2022, exemption request were denied. [ECF No. 1, ¶ 28]. Citing continued concerns with receiving the vaccine, Plaintiff refused inoculation. Consequently, pursuant to CAMC's internal policy, Plaintiff was removed from the schedule and considered to have voluntarily resigned from his position. *See* [ECF No. 9-2].

Following his termination from CAMC, Plaintiff filed a complaint with the United States Equal Employment Opportunity Commission ("EEOC") alleging both religious and disability discrimination. *Id* ¶ 34. The EEOC gave Plaintiff notice of a right to sue on January 19, 2023. *Id.* He filed the instant action on April 19, 2023. In his Complaint, Plaintiff alleged five causes of action against CAMC: (1) religious discrimination in violation of Title VII; (2) disability discrimination in violation of the Americans with Disabilities Act ("ADA"); (3) religious discrimination in violation of the West Virginia Human Rights Act ("WVHRA"); (4) disability discrimination, also in violation of the WVHRA; and (5) a violation of *West Virginia Code* section 16-3-4b, which provides for exemptions to compulsory immunization against COVID-19 as a condition of employment. [ECF No. 1, at 8, 9, 12, 14].

On November 14, 2023, I dismissed Counts II, IV, and V with prejudice leaving only Counts I and III, claims affiliated with Plaintiffs religious contentions. [ECF No. 21].

II. Summary Judgment Standard

Rule 56 of the Federal Rules of Civil Procedure governs motions for summary judgment. A court "may grant summary judgment only if, taking the facts in the best light for the nonmoving party, no material facts are disputed and the moving party is entitled to judgment as a matter of law." *Ausherman v. Bank of Am. Corp.*, 352 F.3d 896, 899 (4th Cir. 2003). "Facts are 'material' when they might affect the outcome of the case, and a 'genuine issue' exists when the evidence would allow a reasonable jury to return a verdict for the nonmoving party." *The News & Observer Publ. Co.*

v. Raleigh—Durham Airport Auth., 597 F.3d 570, 576 (4th Cir. 2010).

The moving party may meet its burden of showing that no genuine issue of fact exists by use of "depositions, answers to interrogatories, answers to requests for admission, and various documents submitted under request for production." *Barwick v. Celotex Corp.*, 736 F.2d 946, 958 (4th Cir. 1984). "[A] party opposing a properly supported motion for summary judgment may not rest upon mere allegation or denials of his pleading, but must set forth specific facts showing that there is a genuine issue for trial." *Anderson v. Liberty Lobby*, 477 U.S. 242, 256 (1986). Although the court will view all underlying facts and inferences in the light most favorable to the nonmoving party, the nonmoving party nonetheless must offer some "concrete evidence from which a reasonable juror could return a verdict in their favor." *Anderson*, 477 U.S. at 256.

Summary judgment is appropriate when the nonmoving party has the burden of proof on an essential element of their case and does not make, after adequate time for discovery, a showing sufficient to establish that element. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). The nonmoving party must satisfy this burden of proof by offering more than a mere "scintilla of evidence" in support of her position. *Anderson*, 477 U.S. at 252. Likewise, conclusory allegations or unsupported speculation, without more, are insufficient to preclude the granting of a summary judgment motion. *See Felty v. Graves—Humphreys Co.*, 818 F.2d 1126, 1128 (4th Cir. 1987).

III. Discussion

The Defendant claims that, even if the Plaintiff is able to prove a prima facie case of religious discrimination for failure to accommodate, allowing the Plaintiff to work in the hospital unvaccinated imposes an undue hardship. I agree.

Given my earlier order dismissing Counts II, IV, and V of Plaintiff's claim, only Counts I and III and Plaintiffs religious discrimination claims for failure to accommodate under Title VII and the WVHRA remain pending. [ECF No. 21]. In Count I, Plaintiff alleges religious discrimination in violation of Title VII of the Civil Rights Act of 1964. [ECF No. 1, at 8-9]. Count III alleges that the same conduct is violative of the WVHRA. *Id* at 12. Defendant argues that Plaintiff fails to satisfy the applicable standard under Title VII and that the evidentiary standards under Title VII and WVHRA are identical. [ECF No. 35, at 2]. It is well-established by courts in West Virginia that both the state and federal codifications of the Civil Rights Act should be construed "to coincide with the prevailing federal application of Title VII" unless variations in statutory language or other compelling reasons require a different result. *Hanlon v. Chambers*, 464 S.E.2d 741, 754 (1995). *See also Henegar v. Sears, Roebuck & Co.*, 965 F. Supp. 833 (N.D. W. Va. 1997). Seeing no compelling reasons suggesting otherwise, I analyze both religious claims under the federal application.

Title VII makes it unlawful for employers to discriminate against any individual with respect to their "compensation, terms, conditions, or privileges [of] employment, because of such individual's . . . religion." 42 U.S.C. § 2000e-2(a)(1). The EEOC has interpreted this to mean that employers are obligated to make

accommodations for the religious needs of employees unless that need poses an undue hardship on the "conduct of the employer's business". *Groff v. DeJoy*, 600 U.S. 447, 456-58 (2023). Therefore, in religious accommodation cases, a burden shifting framework applies. *E.E.O.C. v. Firestone Fibers & Textiles Co.*, 515 F.3d 307, 312 (4th Cir. 2008). Once a plaintiff establishes a prima facie claim by showing that "(1) he or she has a bona fide religious belief that conflicts with an employment requirement; (2) he or she informed the employer of this belief; [and] (3) he or she was disciplined for failure to comply with the conflicting employment requirement." It is the employer that must demonstrate that providing a requested accommodation presents an undue burden. Further, in showing undue hardship, a Defendant must show that a burden is substantial in the context of an employer's overall business. *Groff*, 600 U.S. at 468. Even if I find that the Plaintiff has (1) a sincerely held belief and (2) that belief is religious in nature, the Plaintiffs case may nevertheless fail if CAMC can show that it would suffer an undue burden.

As an initial matter Defendant argues that Plaintiffs beliefs are not religious in nature or sincerely held. Specifically, Defendant notes that Plaintiff testified is his own deposition that his first exemption request was developed from a "copy and paste form" obtained online from a secular podcast. [ECF No. 35]. Defendant claims the secular nature of Plaintiffs belief is further underscored by the fact that Plaintiffs request is nearly identical to the "Employee Letter Example: Vaccine Mandate Objection" letter posted on an online legal advice podcast. *Id.*; [ECF Nos. 35-4, 35-5]. Further, Defendant notes that throughout the entirety

of this form letter, there remains no citation to a specific religious faith, sect, or belief. [ECF No. 35].

Plaintiff responds by asserting that courts have consistently concluded that objections to COVID-19 vaccination requirements with this limited degree of specificity are sufficient to survive motions for summary judgment. *See Ellison*, 2023 WL 4627437, at *6 (holding that Plaintiffs statements regarding his objections to the use of fetal cell tissue in the COVID-19 vaccines in his exemption request "provides sufficient allegations regarding his subjective personal beliefs, how those beliefs are related to his faith, and how those beliefs form the basis of his objection to the COVID-19 vaccination" to survive a motion to dismiss).

I find that both determining the religious nature of Plaintiffs beliefs as well as if those beliefs are sincerely held a delicate task. *See Shigley v. Tydings & Rosenberg LLP*, Civ. No. JKB-23-02717, 2024 WL 1156613, at *5 (D. Md. Mar. 18, 2024). However, given the overwhelming burden that a hospital faces in being forced to employ an unvaccinated respiratory therapist, I find that analysis of Plaintiffs religious beliefs is unwarranted. Assuming arguendo that Plaintiffs belief is religious in nature and sincerely held, I find summary judgement to still be appropriate given the Defendant's ability to meet its burden of demonstrating an undue hardship.

Recently, the Supreme Court clarified the undue burden standard in *Groff*, 600 U.S. at 471. In *Groff*, the Plaintiff was an Evangelical Christian who believed, for religious reasons, that being forced to work Sunday shifts at the United States Postal Service (USPS) was a violation of his sincerely held religious beliefs. *Id.* at 456. When USPS entered peak season, and mandated

that Groff work his assigned Sunday shifts, he refused and ultimately resigned. *Id.* Subsequently, Groff sued under Title VII and asserted that USPS was not unduly burdened by having to accommodate his Sunday Sabbath practice. In a unanimous opinion the Court stated that, rather than a Defendant having to just demonstrate an inconvenience or *de minimis* cost, undue hardship within the context of Title VII "means what is says". *Id.* at 471. Specifically, the Court established that to determine whether an undue burden existed, one must show that a burden would be substantial by viewing it in context of an employer's business and using the "common sense manner that it would use in applying any such test" *Id.*

The Defendant argues that no material fact exists as to the undue hardship it would face by continuing to employ the Plaintiff. First, the Defendant states that The Center for Medicare & Medicaid Services (CMS) has in place a mandate that only permits exemptions required by Federal Law [ECF No. 36, at 16]. Violating this standard could lead CAMC to incur civil money penalties, denial of payment for new admissions, or termination of its own Medicare /Medicaid provider agreement. *Id.* Next, the Defendant states that permitting the Plaintiff, who serves as a respiratory therapist, to remain employed while unvaccinated would expose all patients, families, and medical professionals to an increased risk of COVID-19 exposure. Finally, because CAMC is a hospital, Defendant suggests that there is an increased risk posed by having an unvaccinated person present, thus demonstrating substantial hardship. *Id.*

The Plaintiff's position is simple, he contends that there is no way for CAMC to demonstrate undue

hardship. Chiefly relying on *Groff*, rather than disagreeing with the demonstrated standard, Plaintiff contends that CAMC cannot show they have a "more than de minimis" burden. [ECF No. 39, at 13].

I find no genuine issue of material fact as to the substantial burden that CAMC faces by allowing a respiratory therapist to remain unvaccinated within a large hospital. I first take note that the undue burden analysis has been clarified in the context of COVID-19 transmission and vaccine mandates broadly. As a preliminary matter, in *Groff* the Court acknowledged that an accommodation's impact on the conduct of coworkers is a chief consideration in the undue burden analysis. *Id.* at 471—73. The Court held that the undue burden test takes into account "all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of [an] employer" *Id.* at 470-71. The same relevant factors apply to hospitals.

In the hospital context, there is extensive case law holding that retaining an unvaccinated employee is an undue hardship. For example, in *Together Emps. v. Mass Gen. Brigham Inc.*, the court concluded that "permitting the named plaintiffs to continue to work" at a major hospital "without being vaccinated would materially increase the risk of spreading the disease and undermine public trust and confidence in the safety of its facilities." 573 F. Supp. 3d 412, 433 (D. Mass. 2021), *aff'd*, 32 F.4th 82 (1st Cir. 2022). Even without being able to quantify the cost the hospital would incur in being forced to accommodate unvaccinated employees, the court determined that the burden would be far more than "de minimis".

In *Panozzo v. Riverside Healthcare*, the court employed the fact intensive analysis required under the undue burden standard and concluded that COVID-19 exemptions within a hospital constituted an undue hardship. No. 21-CV-2292, 2022 WL 18779991, at *7 (C.D. Ill. Jan. 2, 2022). The court stated that unlike the influenza vaccine, the COVID-19 vaccine insulates people from a more serious harm. *Id.* at 8 A harm that often results in hospitalization and death even in otherwise healthy people. *Id.* Further, the court concluded that even taking into account the "ebbs and flows in infections, hospitalizations, and deaths in the ongoing pandemic," there remains a risk in allowing employees who are not inoculated to work in a hospital. *Id.* The court also stated that whether other employers in the healthcare field chose to not impose mandatory vaccination requirements was irrelevant. *Id.* Just because certain medical employers choose to accept the hardship that "unvaccinated patient-facing employees pose" does not mean this same hardship is de minimis. *Id.*

Courts have also found an undue burden by calculating a hospital's non-economic costs. For example, in *Aukamp-Corcoran v. Lancaster General Hospital*, the defendant hospital granted 81 medical-based and 24 religious-based exemptions to employees. 2022 WL 507479, at *6-7 (E.D. Pa. Feb. 18, 2022). Despite prior exemptions existing, the court stated that adding one additional unvaccinated employee would increase the "potential risk" within the facility, thus constituting an undue burden. Increased safety risks, even when not a part of a specific quantitative calculation, are more than enough to establish undue burden. *Robinson v. Children's Hosp. Boston*, No. 14-10263-DJC, 2016

WL 1337255, at *9 (D. Mass. Apr. 5, 2016); *see also Howe v. Massachusetts Dept of Correction*, No. 4:22-CV-40119-MRG, 2024 WL 3536830, at *6 (D. Mass. July 25, 2024) (concluding that even on the non-economic front, accommodating a people facing unvaccinated employee would pose substantial health and safety risks); *see also Mace v. Crouse Health Hosp., Inc.*, No. C22-1153, 2023 WL 5049465, at *7 (N.D.N.Y. Aug. 3, 2023) (holding an undue burden exists when an employee has duties such that, if they were infected with COVID-19, they could potentially expose other covered personnel, patients, or residents).

Here, just as in the case law above, Mr. Miller is a client facing individual who has refused to receive the COVID-19 vaccine and is employed by a hospital. The only demonstrative difference I find with Mr. Miller's case is that rather than just any employee, he works specifically as a respiratory therapist. The non-economic costs that come with allowing an unvaccinated, respiratory therapist to be in contact with people often seeking care for life threatening illnesses has exactly the type of impact the Court in *Groff* would deem an undue burden.[1]

Historically, being forced to accommodate an unvaccinated employee has been more than enough to pose an undue hardship for medical facilities across our nation actively combatting the COVID-19 pandemic even today. Employing the "common sense" analysis outlined in *Groff*, I find it painstakingly obvious that a

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[1] I also note that also weighing the economic factors stated by CAMC related to the potential loss of Medicare or Medicaid contracts in addition to the non-economic factors related to the risk of transmission, leads me to the same conclusion.

respiratory therapist with a heightened risk of transmitting a respiratory illness poses not just an undue burden on the hospital, but a substantial burden on all those seeking medical care.

Having found that there is no genuine issue of material fact as to the undue burden placed upon CAMC, the Defendant's affirmative defense succeeds. There presents no need for me to evaluate additional claims. I hereby FIND that no genuine issue of material fact exists at this stage. Therefore, Defendant's Motion for Summary Judgment, [ECF No. 35], is GRANTED. All other pending motions are DENIED as moot.

The court DIRECTS the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

/s/ Joseph R. Goodwin
United States District Judge

ENTER: October 17, 2024

JUDGMENT ORDER, U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA (OCTOBER 17, 2024)

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

CHARLES MILLER,

Plaintiff,

v.

CHARLESTON AREA MEDICAL CENTER,

Defendant.

Civil Action No. 2:23-cv-00340

Before: Joseph R. GOODWIN, U.S. District Judge.

JUDGMENT ORDER

In accordance with the accompanying Memorandum Opinion and Order granting Defendant's motion for summary judgment, the court ORDERS that judgment be entered in favor of the Defendant, and that this case be dismissed and stricken from the docket.

The court DIRECTS the Clerk to send a certified copy of this Judgment Order to counsel of record and to any unrepresented party.

/s/ Joseph R. Goodwin
United States District Judge

ENTER: October 17, 2024

RELATED STATUTORY PROVISIONS

42 U.S.C. § 2000e(j)
Definition of Religion

(J) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

42 U.S.C. § 2000e-2
Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.