

APPENDIX A

United States Court of Appeals
For the Eighth Circuit

No. 25-1095

Jacqueline Colson; Carrie Borgheiinck,

Plaintiffs – Appellants,

Shelly Bratz,

Plaintiff,

v.

Hennepin County,

Defendant – Appellee,

Minnesota Department of Human Services,

Defendant.

Appeal from United States District Court
for the District of Minnesota

Submitted: October 22, 2025

Filed: March 11, 2026

Before GRUENDER, STRAS, and KOBES, Circuit
Judges.

KOBES, Circuit Judge.

Jacqueline Colson and Carrie Borgheiinck sued their employer, Hennepin County, for failure to accommodate their religious and medical objections to the County’s COVID-19 testing policies, alleging claims under Title VII, the Americans with Disabilities Act, and 42 U.S.C. § 1983. The district court¹ dismissed all claims. Both sought leave to file a motion to reconsider the dismissal of their Title VII claims in light of intervening precedent,² which the court³ denied. They now appeal both orders concerning their Title VII claims. We affirm.

We consider the facts as set forth in the complaint and materials “necessarily embraced” in the same. *Glow In One Mini Golf, LLC v. Walz*, 37 F.4th 1365, 1370 (8th Cir. 2022) (citation omitted). During the COVID-19 pandemic, Hennepin County implemented a policy requiring county employees to be fully vaccinated against COVID-19 or else undergo weekly COVID-19 testing. Employees could test at county facilities “on county work time,” or on their own time at a community testing site, clinic, hospital, or pharmacy of their choice. They could also use at-home saliva test kits and treat “the time it takes to complete the test as work time.” Employees who chose to test at

¹ The Honorable Wilhelmina M. Wright, United States District Judge for the District of Minnesota, now retired.

² Specifically: *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024); *Ringhofer v. Mayo Clinic, Ambulance*, 102 F.4th 894 (8th Cir. 2024); *Cole v. Grp. Health Plan, Inc.*, 105 F.4th 1110 (8th Cir. 2024).

³ The Honorable Jerry W. Blackwell, United States District Judge for the District of Minnesota.

home were advised that they were responsible for coding their timecard accordingly.

Borgheiinck is a Christian who believes that “each person has the God-given right to choose what he or she will inject into their body, or extract from their body, based on free will.” She alleges that “mandatory vaccines” and “involuntary weekly testing” violate her religious beliefs because they involve either an “involuntary intrusion into her body” or an “involuntary extraction from her body.” When Borgheiinck requested a religious accommodation from testing, she was granted twelve weeks of unpaid leave. But the County later revoked the accommodation, citing undue hardship. Borgheiinck proposed alternative accommodations such as transferring to a fully remote department or working primarily from home in her current role and following the County’s COVID-19 policy when she was on-site, but the County did not respond and ultimately fired her.

Colson is a Christian who also believes “each person has the God given right to choose what he or she will put into their body, or take out of her body, based on free will.” She believes “in the sanctity of human life” and that “she must treat her body as Temple of the Holy Spirit.” She alleges that weekly testing violates her religious beliefs “because it involves an involuntary intrusion into her body and extractions from her body, a Temple of God.” Complying with the vaccine option would also violate her religious beliefs because “available vaccines were produced with, or tested with cells from aborted babies.” Colson requested an exemption from weekly nasal swab testing, which was granted. She agreed to saliva testing as an accommodation. She has not been

fired, but she alleges that weekly testing for unvaccinated employees “is time consuming, and done outside of work hours,” and that the test “is not private,” because “the tester’s family members are frequently seen and heard on the testing calls” and unidentified others also “observe the saliva tests [she] has to undergo.”

We review the district court’s order granting the motion to dismiss *de novo*, accepting the complaint’s well-pleaded allegations as true and drawing all reasonable inferences in the employees’ favor. *Brown v. Conagra Brands, Inc.*, 131 F.4th 624, 627 (8th Cir. 2025). We may affirm for any reason supported by the record. *Thole v. U.S. Bank, Nat’l Ass’n*, 873 F.3d 617, 626 (8th Cir. 2017). “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A gallimaufry of labels, conclusions, formulaic recitations, naked assertions and the like will not pass muster.” *Christiansen v. W. Branch Cmty. Sch. Dist.*, 674 F.3d 927, 934 (8th Cir. 2012).

Under Title VII, it is “an unlawful employment practice for an employer . . . 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 . . . religion.” 42 U.S.C. § 2000e-2(a)(1). To state a claim based on an employer’s failure to accommodate religious beliefs, the employees must show that (1) “they have a bona fide religious belief that conflicts with an employment requirement”; (2)

“they informed [their employer] of this belief”; and (3) “they were disciplined for failing to comply with the conflicting requirement of employment.” *Ringhofer v. Mayo Clinic, Ambulance*, 102 F.4th 894, 900 (8th Cir. 2024) (quoting *Jones v. TEK Indus., Inc.*, 319 F.3d 355, 359 (8th Cir. 2003)). At the pleadings stage, Borgheiinck and Colson are not required to establish a prima facie case, but they must plead sufficient factual allegations to plausibly support each of these three elements. See *Warmington v. Bd. of Regents of Univ. of Minn.*, 998 F.3d 789, 796 (8th Cir. 2021); *Mandala v. NTT Data, Inc.*, 975 F.3d 202, 209 (2d Cir. 2020).

Borgheiinck’s claim fails at the first prong. Our concern is not with the “validity” of her beliefs. *United States v. Seeger*, 380 U.S. 163, 185 (1965) (“[T]he ‘truth’ of a [religious] belief is not open to question.”); see also *Ringhofer*, 102 F.4th at 900 (“Religious beliefs do not need to be ‘acceptable, logical, consistent, or comprehensible to others.’” (quoting *Thomas v. Rev. Bd. of Ind. Empl. Sec. Div.*, 450 U.S. 707, 714 (1981))). Nor with their sincerity. *Kale v. Aero Simulation, Inc.*, 139 F.4th 684, 689 (8th Cir. 2025); *Murphy v. Mo. Dep’t of Corr.*, 372 F.3d 979, 983 (8th Cir. 2004) (sincerity is a factual question). The problem is that her complaint fails to connect her objections to the County’s testing policy with her specific religious beliefs. See *Kale* 139 F.4th at 689.

Unlike previous plaintiffs, Borgheiinck has not alleged that her “body is a temple,” that complying with her employer’s COVID-19 policy “would make her complicit in the killing of the unborn babies,” or that testing would be “the equivalent of committing idolatry.” *Ringhofer*, 102 F.4th at 901–02. Nor has she alleged that her “beliefs in the energetic connectedness

of the universe do not allow her to receive an injection of the COVID-19 vaccines,” or that COVID-19 testing involves “mixing her biological materials with serum taken from fetal bovines.” *Brokken v. Hennepin County*, 140 F.4th 445, 450–51 (8th Cir. 2025). All she alleges is that she has a “God-given right to choose what [] she will inject into [her] body, or extract from [her] body, based on free will.” Her complaint does not explain how her refusal of COVID-19 testing and vaccination “was motivated by, or a part of, [her] religious beliefs.” *Snyder v. Arconic, Corp.*, No. 23-3188, 2024 WL 3813173, at *2 (8th Cir. Aug. 14, 2024) (per curiam), *cert. denied*, 145 S. Ct. 1312 (2025). Though she alleges a God-given right to choose, she has not alleged how that belief—or any other sincerely held religious principle—requires, guides, or encourages her choice.

Colson’s claim fails at the third prong. She hasn’t alleged facts sufficient to establish that she was fired, suspended, demoted, or otherwise “disciplined for failing to comply with the conflicting requirement of employment.” *Ringhofer*, 102 F.4th at 900 (citation omitted). Nor has she identified any other “adverse employment action”—that is, any “disadvantageous change to the compensation, terms, conditions, or privileges of employment”—as we’ve elsewhere articulated this requirement. *Cole v. Grp. Health Plan, Inc.*, 105 F.4th 1110, 1113 (8th Cir. 2024) (citing *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024)); *Brokken*, 140 F.4th at 450.

Colson argues otherwise, saying she was disciplined by being “forced” to test outside of work

hours without pay.⁴ And relying on our decision in *Cole*, she claims that whether this change “resulted in ‘some harm’ to a term or condition of [her] employment” at least “requires further factual development.” 105 F.4th at 1114. But she did not plead that the time she spent testing at home was unpaid, and we will not “conjure up” that “unpled allegation[] to save [her] complaint.” *Gregory v. Dillard’s, Inc.*, 565 F.3d 464, 473 (8th Cir. 2009) (en banc) (citation omitted). Even if we could reasonably infer from the complaint that testing was uncompensated because it was “done outside of work hours,” that inference is dispelled by the County’s policy documents—whose contents are alleged in the complaint and whose authenticity no party questions, see *Ashanti v. City of Golden Valley*, 666 F.3d 1148, 1151 (8th Cir. 2012)—which expressly allow for paid testing time. Colson’s argument that “the County offers no proof” she was paid, only that she “could have received compensation if certain procedures were followed,” is not well-taken. It was her burden to plead a facially plausible claim for relief. *Iqbal*, 556 U.S. at 678.

The district court did not err by granting the

⁴ To the extent she argues that the adverse employment action was making her “abandon her religious beliefs” by testing at all, regardless of whether she was compensated (and although she agreed to saliva testing), she argues it for the first time on appeal, and we decline to consider this theory. See *Perry v. Precythe*, 121 F.4th 711, 716 (8th Cir. 2024). We also decline to reach her argument that there’s any “obvious[]” “intimation” from her allegation that the testing wasn’t private that she found the process of testing “degrading,” and that this suffices to plausibly allege an adverse employment action, because it was made on appeal for the first time at oral argument. See *Nemmers v. Ford Motor Co.*, 686 F.3d 486, 491 n.4 (8th Cir. 2012).

County's motion to dismiss. Nor did it abuse its discretion by denying Colson and Borgheiinck's request for leave to file a motion for reconsideration. *Woodward v. Credit Serv. Int'l Corp.*, 132 F.4th 1047, 1058 (8th Cir. 2025) (standard of review); D. Minn. L.R. 7.1(j) (requiring "compelling circumstances" to obtain leave to file a motion for reconsideration). Although *Muldrow*, *Ringhofer*, and *Cole* may represent a change in "the legal landscape," as Borgheiinck and Colson argue, none of those cases compel a different result here.

Affirmed.

STRAS, Circuit Judge, concurring in part and dissenting in part.

Colson's complaint looks a lot like others that have alleged enough to survive a motion to dismiss, including one involving the same employer. *See Brokken v. Hennepin County*, 140 F.4th 445, 449–50 (8th Cir. 2025); *see also Ringhofer v. Mayo Clinic, Ambulance*, 102 F.4th 894, 901 (8th Cir. 2024) (describing similar religious objections to the COVID-19 vaccine). She objected on religious grounds to receiving the COVID-19 vaccine because, during its "produc[tion]" and "test[ing]," the developers used the "cells [of] aborted babies." *See Brown v. Conagra Brands, Inc.*, 131 F.4th 624, 627 (8th Cir. 2025) (explaining that we treat the complaint's allegations as true at the motion-to-dismiss stage). Hennepin County responded with two choices that she found unacceptable: test weekly or termination.

No one doubts that, had she picked her religion over her job, getting fired would have been a

“disadvantageous change in an employment term or condition.” *Muldrow v. City of St. Louis*, 601 U.S. 346, 354 (2024) (citation omitted). Somehow, however, picking her job over her religion changes the answer, even though testing also violated her religious convictions by requiring “extractions from her body,” which she views as “a Temple of God.” *See Brokken*, 140 F.4th at 451 (describing a similar choice “between violating . . . sincerely held religious beliefs by complying with [a] testing requirement and termination”); *Ringhofer*, 102 F.4th at 902 (discussing an objection to a testing mandate based on the plaintiff’s belief that “her body is a temple”). In my view, a weekly testing requirement is, for someone like Colson, just as much of an injury as having to clean coworkers’ offices or work the night shift. *See Muldrow*, 601 U.S. at 354–56.

As we have explained, an order to violate one’s religious beliefs “may itself constitute an adverse action.” *Cole v. Grp. Health Plan, Inc.*, 105 F.4th 1110, 1114 (8th Cir. 2024). But even if not, she alleged more. The complaint explains how she had to spit into a tube weekly while others watched her complete a test that violated her religious beliefs, a process she described as “humiliating, degrading[,] and time[-]consuming.”⁵ *See Muldrow*, 601 U.S. at 354. Sounds like a “disadvantageous change” to me. *Id.* at 354 (citation

⁵ It is true, as the court points out, that Colson did not repeat these allegations in every filing. But she has always argued that the testing was an adverse employment action, so it would be no surprise to anyone that the complaint is where it says why. *See PCTV Gold, Inc. v. SpeedNet, LLC.*, 508 F.3d 1137, 1145 n.5 (8th Cir. 2007) (reaching an argument because a party had “alleged the facts on which it[] . . . [was] based” and it was “encompassed in a . . . more general argument” the party had raised).

omitted); *see id.* at 355, 357 (explaining that such a change need not be “significant[ly]” or “materially adverse” (citation omitted)).

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APPENDIX B

**UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT**

No. 25-1095

Jacqueline Colson and Carrie Borgheiinck,

Appellants,

Shelly Bratz,

v.

Hennepin County,

Appellee,

Minnesota Department of Human Services.

Appeal from U.S. District Court for the District of
Minnesota (0:22-cv-02041-JWB)

MANDATE

In accordance with the opinion and judgment of
March 11, 2026, and pursuant to the provisions of
Federal Rule of Appellate Procedure 41(a), the formal
mandate is hereby issued in the above-styled matter.

April 01, 2026

Clerk, U.S. Court of Appeals, Eighth Circuit

APPENDIX C

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jaqueline Colson, et al.,

Plaintiffs,

v.

Hennepin County, et al.,

Respondent.

Minnesota Department of Human Services.

The Plaintiff Shelly Bratz and Minnesota Department of Human Services have filed a Stipulation of Dismissal (Doc. No. 58). Based on that Stipulation, Plaintiff Shelly Bratz's claims against Minnesota Department of Human Services are **DISMISSED WITH PREJUDICE**. Each party to bear their own costs, disbursements, and attorneys' fees.

Plaintiff Jacqueline Colson and Plaintiff Carrie Borgheiinck's claims against Hennepin County were previously **DISMISSED WITH PREJUDICE**. (Doc. No. 45.)

This case is now closed.

**LET JUDGMENT BE ENTERED
ACCORDINGLY.**

Dated: January 2, 2025 s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District
Court Judge

APPENDIX D
UNITED STATES DISTRICT COURT
District of Minnesota

Jacqueline Colson, Carrie Borgheiinck,
Shelly Bratz,
Plaintiffs,

v.

Hennepin County, Minnesota Department
of Human Services,
Defendants.

Civil Number: 22-cv-02041-JWB-SGE

JUDGMENT IN A CIVIL CASE

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:
Plaintiff Shelly Bratz's claims against Minnesota
Department of Human Services are DISMISSED
WITH PREJUDICE. Each party to bear their own
costs, disbursements, and attorneys' fees. Plaintiff

Jacqueline Colson and Plaintiff Carrie Borgheiinck's claims against Hennepin County were previously DISMISSED WITH PREJUDICE. (Doc. No. 45.) This case is now closed.

Date: 1/3/2025

KATE M. FOGARTY, CLERK

APPENDIX E

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jacqueline Colson, Carrie Borgheiinck, and
Shelly Bratz,

Plaintiffs,

v.

Hennepin County, and Minnesota Department of
Human Services,

Defendants.

Case No. 22-cv-2041 (WMW/LIB)

ORDER

Before the Court is Defendant Hennepin County's motion to dismiss. (Dkt. 32.) For the reasons addressed below, the motion is granted.

BACKGROUND

During the COVID-19 pandemic, Plaintiffs Jacqueline Colson and Carrie Borgheiinck were employed by Defendant Hennepin County, and Plaintiff Shelly Bratz was employed by Defendant Minnesota Department of Human Services ("MNDHS").

In 2021, Hennepin County and MNDHS instituted their Vaccine Mandates, which required all employees to either obtain the COVID-19 vaccination and provided a process for employees to request a

medical or religious exemption that exempted qualified employees from the otherwise mandatory policy. If an exemption was granted, the employee was required to participate in weekly COVID-19 testing. If an exempt employee failed to comply with this requirement, the Vaccine Mandates provided that the employee could be subject to discipline, up to and including termination. In response to the Vaccine Mandates, Plaintiffs requested and were granted religious exemptions from Defendants' mandatory policies.

Both Colson and Borgheiinck sought accommodation from the weekly COVID-19 testing requirement from Hennepin County. Hennepin County denied Colson's request and granted Borgheiinck's request. Hennepin County then placed Borgheiinck on a 12-week unpaid leave of absence. Hennepin County later revoked Borgheiinck's unpaid leave of absence because of an alleged undue hardship. Borgheiinck continued to refuse to participate in weekly COVID-19 testing, which eventually led to the termination of her employment with Hennepin County. Bratz sought an accommodation from the weekly COVID-19 testing requirement from MNDHS, which MNDHS denied.

ANALYSIS

To survive a motion to dismiss, a complaint must allege facts that, if accepted as true, establish a facially plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *see also* Fed. R. Civ. P. 12(b)(6). When evaluating a motion to dismiss, the district court accepts as true the factual allegations in the complaint and draws all reasonable inferences in the plaintiff's favor. *Blankenship v. USA Truck, Inc.*, 601 F.3d 852, 853 (8th Cir. 2010). Although the factual allegations need not be detailed, they must be sufficient to "raise a

right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007). A plaintiff may not rely on, nor may a district court consider, legal conclusions couched as factual allegations. *See Iqbal*, 556 U.S. at 678-79.

Because MNDHS has not joined the motion to dismiss, this Order addresses only Colson’s and Borgheiinck’s claims against Hennepin County.

I. Title VII

Hennepin County moves to dismiss Colson’s and Borgheiinck’s Title VII claims, arguing that neither Colson nor Borgheiinck has established a *prima facie* case of religious discrimination for failure to accommodate under Title VII. Colson and Borgheiinck dispute Hennepin County’s argument and contend that they have established a *prima facie* case.

Under Title VII, it is unlawful for an employer to “discharge any individual, or otherwise to discriminate against any individual with respect to [that individual’s] . . . terms, conditions, or privileges of employment, because of such individual’s . . . religion.” 42 U.S.C. § 2000e-2(a)(1). This prohibition includes “all aspects of religious observance and practice,” unless an employer demonstrates the inability to reasonably accommodate the employee’s religious observance or practice without creating an undue hardship on the employer’s business. 42 U.S.C. § 2000e(j). It is unlawful for an employer to fail to make reasonable accommodations for an employee’s religious practices, unless doing so would impose an undue hardship. *Ansonia Bd. of Educ. v. Philbrook*, 479 U.S. 60, 63 (1986).

To establish a *prima facie* case of religious discrimination for failure to accommodate under Title VII, plaintiffs must show that they (1) have a bona fide religious belief that conflicts with an employment requirement, (2) informed their employer of this belief, and (3) were disciplined for failing to comply with the conflicting requirement. *Jones v. TEK Indus., Inc.*, 319 F.3d 355, 359 (8th Cir. 2003); *Wilson v. U.S. W. Commc'ns*, 58 F.3d 1337, 1340 (8th Cir. 1995). If plaintiffs establish a *prima facie* case, the burden shifts to defendants to show that they offered plaintiffs a reasonable accommodation, *Wilson*, 58 F.3d at 1340, or that accommodating plaintiffs would result in an undue hardship. *Seaworth v. Pearson*, 203 F.3d 1056, 1057 (8th Cir. 2000) (per curiam); *see also Harrell v. Donahue*, 638 F.3d 975, 977 (8th Cir. 2011).

Colson does not allege that she was disciplined for failing to comply with the weekly testing requirement. Colson, therefore, fails to establish a *prima facie* case against Hennepin County for failure to accommodate under Title VII. Accordingly, dismissal of Colson's Title VII claim is warranted.

Borgheiinck's Title VII claim against Hennepin County fails because Borgheiinck does not allege a bona fide religious belief that conflicts with an employment requirement. To determine whether a belief is religious, the Court considers whether the belief addresses "fundamental and ultimate questions having to do with deep and imponderable matters," whether the teachings are "comprehensive in nature" or isolated, and whether there are "certain formal and external signs" present. *Love v. Reed*, 216 F.3d 682, 687 (8th Cir. 2000). These factors are applied flexibly and with careful consideration to each belief. *Id.* While it may be a "difficult and delicate task," courts must

determine what is a “religious” belief. *Thomas v. Review Bd. of Ind. Empl. Sec. Div.*, 450 U.S. 707, 714 (1981). A religious belief need not be “acceptable, logical, consistent, or comprehensible to others.” *Id.* And the court cannot question the “validity” of what a plaintiff believes. *United States v. Seeger*, 380 U.S. 163, 184 (1965). However, “the very concept of ordered liberty precludes allowing every person to make his [or her] own standards on matters of conduct which society as a whole has important interests.” *Wisconsin v. Yoder*, 406 U.S. 205, 215–16 (1972).

The complaint provides that Borgheiinck “believes each person has the God-given right to choose what he or she will inject into their body, or extract from their body, based on free will.” (Dkt. 1 at 7.) Courts across the country have declined to find similar claims in opposition to vaccines and weekly testing requirements to be a sincerely held religious belief. *See, e.g., Kiel v. Mayo Clinic Health Sys. Se. Minnesota*, No. 22-cv-1319 (JRT/ECW), 2023 WL 5000255, at *8 (D. Minn. Aug. 4, 2023); *Petermann v. Aspirus, Inc.*, No. 22-cv-332, 2023 WL 2662899, at *2 (W.D. Wis. Mar. 28, 2023). The complaint primarily details Borgheiinck’s scientific, personal, and medical objections to the vaccine, including her belief that the vaccine is ineffective and her concerns with its potential side effects. Borgheiinck’s objection to Hennepin County’s Vaccine Mandate and the weekly testing appear to be rooted in her belief that the vaccine is unhealthy or unsafe, which is not itself a religious belief. *See Kiel*, 2023 WL 5000255, at *8 (finding that plaintiff’s objection to COVID-19 vaccine were rooted in her belief that the vaccine is unhealthy or unsafe rather than a religious belief). Even when the Court accepts as true the factual allegations in the complaint and draws all

reasonable inferences in Borgheiinck's favor, the Court cannot conclude that Borgheiinck's objections to the vaccine and weekly testing arise from a bona fide religious belief. *See Id.*; *see also Winans v. Cox Auto., Inc.*, No. 22-cv-3826, 2023 WL 2975872, at *4 (E.D. Pa. Apr. 17, 2023). Borgheiinck, therefore, fails to establish a *prima facie* case for failure to accommodate under Title VII against Hennepin County. Accordingly, Borgheiinck's Title VII claim is dismissed.

II. ADA

The ADA claims that Colson and Borgheiinck present are based on the ADA's prohibition of medical examinations and disability inquiries. Colson and Borgheiinck argue that Hennepin County's Vaccine Mandate and weekly testing requirement violated the ADA's medical examinations and inquiries provisions, 42 U.S.C. § 12112(d)(4)(A). Hennepin County moves to dismiss the ADA claims, contending that the mandate and weekly testing requirement do not violate the ADA. Colson and Borgheiinck oppose the motion.

The ADA prohibits an employer from requiring a medical examination or inquiring about an employee's disability status "unless such examination or inquiry is shown to be job-related and consistent with business necessity." 42 U.S.C. § 12112(d)(4)(A). "This provision applies to all employees, regardless of whether the employee has an actual disability." *Thomas v. Corwin*, 483 F.3d 516, 527 (8th Cir. 2007).

A "medical examination" is defined by the EEOC as "a procedure or test that seeks information about an individual's physical or mental impairments or health." *Bates v. Dura Auto. Sys., Inc.*, 767 F.3d 566,

574 (6th Cir. 2014) (quoting EEOC Enforcement Guidance). A disability-related inquiry is a question or a series of questions that is likely to elicit information about a disability, such as asking an employee whether he or she has a disability, asking for medical documentation about a disability, or asking broad questions about the employee's impairments that are likely to elicit information about a disability. *Kehren v. Olmsted Med. Ctr.*, No. 22-cv-1560 ADM/JFD, 2023 WL 2776094, at *6 (D. Minn. Apr. 4, 2023) (citing EEOC, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-disability-related-inquiries-and-medical-examinations-employees#4>.)

The requirement that employees report vaccination status to Hennepin County and the weekly COVID-19 testing requirement do not violate the ADA because neither requirement would elicit information about a disability. *Id.*; see also *Aronson v. Olmsted Med. Ctr.*, No. 22-cv-1594 ADM/JFD, --- F.Supp.3d ---, 2023 WL 2776095 at *5-6 (D. Minn. Apr. 4, 2023) (holding a COVID-19 testing requirement is not likely to reveal a disability).

In summary, Colson and Borgheiinck fail to plausibly allege an unlawful medical examination or disability-related inquiry that violates the ADA. Accordingly, Colson's and Borgheiinck's ADA claims are dismissed.

III. Section 1983

Hennepin County argues that Colson and Borgheiinck fail to state a claim for relief under 42

U.S.C. § 1983. Colson and Borgheiinck dispute this contention.

Section 1983 provides a federal cause of action for plaintiffs to sue officials acting under color of state law for alleged deprivation of “rights, privileges, or immunities secured by the Constitution and laws” of the United States. 42 U.S.C. § 1983. Section 1983 does not establish any substantive rights. *Chapman v. Houston Welfare Rights Org.*, 441 U.S. 600, 617 (1979). Rather, Section 1983 serves as a vehicle for “vindicating federal rights elsewhere conferred by those parts of the United States Constitution and federal statutes that it describes.” *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979). A constitutional or statutory violation is a needed to establish liability under Section 1983. *Id.* However, not all statutory violations may be remedied through Section 1983. *Id.*

A Section 1983 claim is foreclosed when Congress intends a statute to be the exclusive vehicle for relief. *Alsbrook v. City of Maumelle*, 184 F.3d 999, 1011 (8th Cir. 1999) (en banc). Section 1983 does not provide any additional remedy under Title VII nor the ADA. *Id.* (The ADA’s comprehensive remedial scheme bars a plaintiff’s Section 1983 claims.); *Henley v. Brown*, 686 F.3d 634, 642 (8th Cir. 2012) (“Title VII provides the exclusive remedy for employment discrimination claims created by its own terms[.]”).

Colson and Borgheiinck allege in their complaint that their Section 1983 claims arise from Hennepin County’s violation of Title VII, the ADA, and the United States Constitution. To the extent that Colson and Borgheiinck rely on their Title VII and ADA claims to establish a Section 1983 claim against

Hennepin County, their Section 1983 claims fail because Section 1983 does not provide additional remedies for violations of these statutes. *See Collingham v. City of Northfield*, No. 21-cv-2466 (PJS/JFD), 2022 WL 1558410, *1 (D. Minn. May 17, 2022) (dismissing Section 1983 claims arising from Title VII and the ADA because Section 1983 did not provide an independent action against plaintiffs). To the extent Colson and Borgheiinck rely on a violation of the United States Constitution to establish their Section 1983 claims, the complaint fails to articulate a violation of the United States Constitution. Because Colson and Borgheiinck fail to state a claim for relief under 42 U.S.C. § 1983, the Court dismisses Colson's and Borgheiinck's Section 1983 claims.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Defendant Hennepin County's motion to dismiss, (Dkt. 32), is **GRANTED**;
2. The claims of Plaintiffs Jacqueline Colson and Carrie Borgheiinck against Hennepin County are **DISMISSED with prejudice**.

Dated: December 12, 2023

s/ Wilhelmina M. Wright

Wilhelmina M. Wright

United States District Judge